

Introduced by Senator Alquist

January 9, 2006

An act to amend Section 68152 of the Government Code, to amend Sections 290, 290.46, 311.4, 311.11, 626.8, 800, 1192.7, 1202.8, 1203, 1203c, 3000, 3005, 13887, and 13887.1 of, to add Sections 288.3, 288.7, 290.03, 290.04, 290.05, 290.06, 290.07, 290.08, 290.09, 311.12, 626.83, 13015, and 13105 to, to add a heading to Chapter 5.5 (commencing with Section 290) to Title 9 of Part 2 of, and to add Chapter 1.5 (commencing with Section 5040) to Title 7 of Part 3 of, the Penal Code, and to amend Sections 6600 and 6601 of the Welfare and Institutions Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1128, as amended, Alquist. ~~Sex offenders.~~ *Sex offender Punishment, Control, and Containment Act of 2006.*

Existing law sets forth timelines for the retention of court records, depending upon the subject matter or criminal offense.

This bill would require courts to keep all records relating to persons required to register as sex offenders for the life of the offender. The bill also would prohibit a state or local law enforcement agency from destroying any records relating to a registered sex offender for the life of the offender. Because the bill would impose new responsibilities on local agencies, the bill would impose a state-mandated local program.

Under existing law, lewd or lascivious conduct with a minor is a felony. Under existing law, any person who engages in unlawful sexual intercourse with a minor who is more than 3 years younger than the perpetrator is guilty of either a misdemeanor or felony, and may also be liable for civil penalties.

This bill would provide that a person who contacts or communicates with a minor with the intent to commit a lewd or lascivious act is guilty of a misdemeanor or felony. The bill would also provide that any adult who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger is guilty of a felony and shall be punished by imprisonment in the state prison for 25 years to life. Because the bill would create new crimes, the bill would impose a state-mandated local program.

Existing law requires a person convicted any specified sex offense to register as a sex offender.

This bill would add the above new crimes to the list of crimes that require a person to register as a sex offender, and would require every adult male who is required to register as a sex offender to be assessed for risk of recidivism using the STATIC-99 assessment tool. The bill would require the Department of Corrections and Rehabilitation, in consultation with the Department of Mental Health and other experts, to research actuarial risk assessment tools for female and juvenile sex offenders. The bill would require the department to establish a training program for probation officers, parole officers, and others to become designated risk assessment testers. The bill would require the Department of Justice to renovate the Violent Crime Information Network, as specified.

This bill would make findings and declarations regarding the need for a comprehensive system of risk assessment, supervision, monitoring, and containment for registered sex offenders.

Existing law requires the Department of Justice to make available to the public information regarding registered sex offenders via an Internet Web site.

This bill would require the Attorney General to develop strategies to assist members of the public in understanding how to use the information on the Web site to further public safety.

Under existing law, possession of pornographic material that depicts a minor engaging in sexual conduct is a misdemeanor.

This bill would provide that if the material depicts a minor who is prepubescent, the crime is a misdemeanor or felony, and if the person intends to distribute or exchange that material with another person, regardless of commercial intent, the crime is a felony. Because the bill would change the scope of a crime, the bill would impose a state-mandated local program.

The bill would authorize any monetary assets gained from the production, publication, sale, distribution, exchange, or control of pornographic material that depicts a minor to be subject to forfeiture.

Under existing law, it is a misdemeanor for any person without any lawful business thereon, including any specified sex offender, to remain on school grounds, or to reenter school grounds, or any public way adjacent thereto, after being asked to leave, as specified.

This bill would instead make it a misdemeanor for any person who is required to register as a sex offender to come into any school building or upon any school ground without lawful business thereon or written permission from the chief administrative official of that school, or who loiters about any street, sidewalk, or public way adjacent to any school building, school grounds, public playground, or other youth recreational facility where minors are present, without lawful business thereon. Because the bill would increase the scope of an existing crime, the bill would impose a state-mandated local program.

This bill also would make it a misdemeanor for a person who is required to register as a sex offender where the victim was an elderly or dependent person to come onto any property where elderly or dependent persons reside or regularly are present, without lawful business thereon or written permission from the director of the facility.

Under existing law, prosecution for an offense punishable by imprisonment in the state prison for 8 years or more is required to be commenced within 6 years after the commission of the offense.

This bill would extend the statute of limitations for prosecuting possession of child pornography for commercial purposes to 10 years from the date of production.

Existing law, added by an initiative statute which provides for amendment of its provision by 2/3 vote of the Legislature, prohibits plea bargaining in certain felony cases, except as specified.

This bill would state the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under “one strike,” “3 strikes” or habitual sexual offender laws instead of engaging in plea bargaining, and would require a district attorney to state on the record why a sentence should not be prosecuted under those provisions, if he or she engages in plea bargaining despite the stated intent.

Existing law establishes a county probation system.

This bill would require probation officers trained in the use of the STATIC-99 assessment tool to perform a pre-sentencing risk assessment of every adult male convicted of an offense that requires him to register as a sex offender. The bill would require each probation officer to compile a Facts of Offense Sheet for those offenders, as specified. The bill would require each county to designate certain probation officers to be trained to administer the STATIC-99 assessment tool and to monitor registered sex offenders. The bill would require those probationers to report more frequently to their probation officer and to be subject to more intensive scrutiny. Because the bill would impose additional duties on probation officers, it would impose a state-mandated local program.

Existing law requires a probation officer to prepare a report for the court for each person convicted of a felony.

This bill would require a probation officer to also use the STATIC-99 assessment tool on each person convicted of a felony that requires him or her to register as a sex offender, in order to determine the persons' risk of reoffending, and to include that assessment in the presentencing report. The bill would require the results of that assessment to be considered by the court in determining suitability for probation.

Existing law provides for a 3-year maximum period of parole for persons who are convicted of a felony, except that the maximum period of parole for persons who are convicted of certain violent felonies is 5 years.

This bill would set the maximum period of parole for persons who are convicted of certain sex offenses at 10 years.

Existing law requires the Department of Corrections and Rehabilitation to ensure that all parolees under active supervision and deemed to pose a high risk to the public of committing a violent sex crime to be placed on an intensive and specialized parole supervision caseload.

This bill would instead required those parolees who are deemed to pose a moderate-high or high risk to the public of committing any sex crime, as determined by the STATIC-99 assessment tool, to be placed on such a caseload, and to be required to report frequently to designated parole officers.

This bill would require the department to use the STATIC-99 assessment tool to perform a risk assessment on all inmates who are convicted of a sex offense that requires them to register as a sex

offender, upon commitment to the department or prior to being released on parole. The bill would require the department to develop containment and control programming for sex offenders who have been assessed as having a moderate-high or high risk of committing a sex offense, pursuant to that provision.

Existing law authorizes counties to establish sexual assault felony enforcement (SAFE) teams to reduce violent sexual assaults through proactive surveillance of habitual sexual offenders.

This bill would require every county to establish a SAFE team. Because the bill would impose new duties on local governments, it would create a state-mandated local program.

Existing law defines “sexually violent offense” for purposes of the sexually violent predator law.

This bill would include prior convictions for certain offenses convicted as a juvenile or that resulted in an indeterminate sentence in that definition.

Under existing law, any finding made that a person is a sexually violent predator, as specified, shall not toll, discharge, or otherwise affect that person’s period of parole, as specified.

This bill instead would provide that such a finding shall toll his or her period of parole.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law requires all persons convicted of specified sex crimes to register as a sex offender for life.~~

~~This bill would make findings and declarations relating to the Legislature’s intent to enact the Sex Offender Punishment, Control, and Containment Act of 2006, a comprehensive strategy to protect California communities from sex offenders.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known as the Sex Offender*
2 *Punishment, Control, and Containment Act of 2006.*

3 *SEC. 2. The Legislature finds and declares all of the*
4 *following:*

5 *(a) The primary public policy goal of managing sex offenders*
6 *in the community is the prevention of future victimization.*

7 *(b) California's tactics for monitoring registered sex offenders*
8 *must be transformed into a cohesive and comprehensive system*
9 *of state and local law enforcement supervision to observe, assess,*
10 *and proactively respond to patterns and conduct of registered sex*
11 *offenders in the community.*

12 *(c) California's infrastructure for collecting, maintaining,*
13 *and disseminating information about registered sex offenders*
14 *must be retooled to ensure that law enforcement and the public*
15 *have access to accurate, up-to-date, and relevant information*
16 *about registered sex offenders.*

17 *(d) In order to accomplish these goals, the Legislature hereby*
18 *enacts the Sex Offender Control and Containment Act of 2006.*

19 *SEC. 3. Section 68152 of the Government Code is amended to*
20 *read:*

21 68152. The trial court clerk may destroy court records under
22 Section 68153 after notice of destruction and if there is no
23 request and order for transfer of the records, except the
24 comprehensive historical and sample superior court records
25 preserved for research under the California Rules of Court, when
26 the following times have expired after final disposition of the
27 case in the categories listed:

28 (a) Adoption: retain permanently.

29 (b) Change of name: retain permanently.

30 (c) Other civil actions and proceedings, as follows:

31 (1) Except as otherwise specified: 10 years.

32 (2) Where a party appears by a guardian ad litem: 10 years
33 after termination of the court's jurisdiction.

34 (3) Domestic violence: same period as duration of the
35 restraining or other orders and any renewals, then retain the
36 restraining or other orders as a judgment; 60 days after expiration
37 of the temporary protective or temporary restraining order.

38 (4) Eminent domain: retain permanently.

1 (5) Family law, except as otherwise specified: 30 years.

2 (6) Harassment: same period as duration of the injunction and
3 any renewals, then retain the injunction as a judgment; 60 days
4 after expiration of the temporary restraining order.

5 (7) Mental health (Lanterman Developmental Disabilities
6 Services Act and Lanterman-Petris-Short Act): 30 years.

7 (8) Paternity: retain permanently.

8 (9) Petition, except as otherwise specified: 10 years.

9 (10) Real property other than unlawful detainer: retain
10 permanently if the action affects title or an interest in real
11 property.

12 (11) Small claims: 10 years.

13 (12) Unlawful detainer: one year if judgment is for possession
14 of the premises; 10 years if judgment is for money.

15 (d) Notwithstanding subdivision (c), any civil or small claims
16 case in the trial court:

17 (1) Involuntarily dismissed by the court for delay in
18 prosecution or failure to comply with state or local rules: one
19 year.

20 (2) Voluntarily dismissed by a party without entry of
21 judgment: one year.

22 Notation of the dismissal shall be made on the civil index of
23 cases or on a separate dismissal index.

24 (e) Criminal.

25 (1) Capital felony (murder with special circumstances where
26 the prosecution seeks the death penalty): retain permanently. If
27 the charge is disposed of by acquittal or a sentence less than
28 death, the case shall be reclassified.

29 (2) Felony, except as otherwise specified: 75 years.

30 (3) Felony, except capital felony, with court records from the
31 initial complaint through the preliminary hearing or plea and for
32 which the case file does not include final sentencing or other
33 final disposition of the case because the case was bound over to
34 the superior court: five years.

35 (4) Misdemeanor, except as otherwise specified: five years.

36 (5) Misdemeanor alleging a violation of the Vehicle Code,
37 except as otherwise specified: three years.

38 (6) Misdemeanor alleging a violation of Section 23103, 23152,
39 or 23153 of the Vehicle Code: 10 years.

1 (7) Misdemeanor alleging a violation of Section 14601,
2 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.

3 (8) Misdemeanor alleging a marijuana violation under
4 subdivision (b), (c), (d), or (e) of Section 11357 of the Health and
5 Safety Code, or subdivision (b) of Section 11360 of the Health
6 and Safety Code in accordance with the procedure set forth in
7 Section 11361.5 of the Health and Safety Code: records shall be
8 destroyed two years from the date of conviction or from the date
9 of arrest if no conviction.

10 (9) Misdemeanor, infraction, or civil action alleging a
11 violation of the regulation and licensing of dogs under Sections
12 30951 to 30956, inclusive, of the Food and Agricultural Code or
13 violation of any other local ordinance: three years.

14 (10) Infraction, except as otherwise specified: three years.

15 (11) Parking infractions, including alleged violations under the
16 stopping, standing, and parking provisions set forth in Chapter 9
17 (commencing with Section 22500) of Division 11 of the Vehicle
18 Code: two years.

19 (12) *Records relating to a person required to register as a sex*
20 *offender pursuant to Section 290 of the Penal Code: retain for*
21 *the life of the person.*

22 (f) Habeas corpus: same period as period for retention of the
23 records in the underlying case category.

24 (g) Juvenile.

25 (1) Dependent (Section 300 of the Welfare and Institutions
26 Code): upon reaching age 28 or on written request shall be
27 released to the juvenile five years after jurisdiction over the
28 person has terminated under subdivision (a) of Section 826 of the
29 Welfare and Institutions Code. Sealed records shall be destroyed
30 upon court order five years after the records have been sealed
31 pursuant to subdivision (c) of Section 389 of the Welfare and
32 Institutions Code.

33 (2) Ward (Section 601 of the Welfare and Institutions Code):
34 upon reaching age 21 or on written request shall be released to
35 the juvenile five years after jurisdiction over the person has
36 terminated under subdivision (a) of Section 826 of the Welfare
37 and Institutions Code. Sealed records shall be destroyed upon
38 court order five years after the records have been sealed under
39 subdivision (d) of Section 781 of the Welfare and Institutions
40 Code.

1 (3) Ward (Section 602 of the Welfare and Institutions Code):
2 upon reaching age 38 under subdivision (a) of Section 826 of the
3 Welfare and Institutions Code. Sealed records shall be destroyed
4 upon court order when the subject of the record reaches the age
5 of 38 under subdivision (d) of Section 781 of the Welfare and
6 Institutions Code.

7 (4) Traffic and some nontraffic misdemeanors and infractions
8 (Section 601 of the Welfare and Institutions Code): upon
9 reaching age 21 or five years after jurisdiction over the person
10 has terminated under subdivision (c) of Section 826 of the
11 Welfare and Institutions Code. May be microfilmed or
12 photocopied.

13 (5) Marijuana misdemeanor under subdivision (e) of Section
14 11357 of the Health and Safety Code in accordance with
15 procedures specified in subdivision (a) of Section 11361.5 of the
16 Health and Safety Code: upon reaching age 18 the records shall
17 be destroyed.

18 (h) Probate.

19 (1) Conservatorship: 10 years after decree of termination.

20 (2) Guardianship: 10 years after the age of 18.

21 (3) Probate, including probated wills, except as otherwise
22 specified: retain permanently.

23 (i) Court records of the appellate division of the superior court:
24 five years.

25 (j) Other records.

26 (1) Applications in forma pauperis: any time after the
27 disposition of the underlying case.

28 (2) Arrest warrant: same period as period for retention of the
29 records in the underlying case category.

30 (3) Bench warrant: same period as period for retention of the
31 records in the underlying case category.

32 (4) Bond: three years after exoneration and release.

33 (5) Coroner's inquest report: same period as period for
34 retention of the records in the underlying case category; if no
35 case, then permanent.

36 (6) Court orders not associated with an underlying case, such
37 as orders for destruction of court records for telephone taps, or to
38 destroy drugs, and other miscellaneous court orders: three years.

39 (7) Court reporter notes: 10 years after the notes have been
40 taken in criminal and juvenile proceedings and five years after

1 the notes have been taken in all other proceedings, except notes
2 reporting proceedings in capital felony cases (murder with
3 special circumstances where the prosecution seeks the death
4 penalty and the sentence is death), including notes reporting the
5 preliminary hearing, which shall be retained permanently, unless
6 the Supreme Court on request of the court clerk authorizes the
7 destruction.

8 (8) Electronic recordings made as the official record of the
9 oral proceedings under the California Rules of Court: any time
10 after final disposition of the case in infraction and misdemeanor
11 proceedings, 10 years in all other criminal proceedings, and five
12 years in all other proceedings.

13 (9) Electronic recordings not made as the official record of the
14 oral proceedings under the California Rules of Court: any time
15 either before or after final disposition of the case.

16 (10) Index, except as otherwise specified: retain permanently.

17 (11) Index for cases alleging traffic violations: same period as
18 period for retention of the records in the underlying case
19 category.

20 (12) Judgments within the jurisdiction of the superior court
21 other than in a limited civil case, misdemeanor case, or infraction
22 case: retain permanently.

23 (13) Judgments in misdemeanor cases, infraction cases, and
24 limited civil cases: same period as period for retention of the
25 records in the underlying case category.

26 (14) Minutes: same period as period for retention of the
27 records in the underlying case category.

28 (15) Naturalization index: retain permanently.

29 (16) Ninety-day evaluation (under Section 1203.03 of the
30 Penal Code): same period as period for retention of the records in
31 the underlying case category, or period for completion or
32 termination of probation, whichever is longer.

33 (17) Register of actions or docket: same period as period for
34 retention of the records in the underlying case category, but in no
35 event less than 10 years for civil and small claims cases.

36 (18) Search warrant: 10 years, except search warrants issued in
37 connection with a capital felony case defined in paragraph (7),
38 which shall be retained permanently.

39 (k) Retention of any of the court records under this section
40 shall be extended as follows:

1 (1) By order of the court on its own motion, or on application
2 of a party or any interested member of the public for good cause
3 shown and on those terms as are just. A fee shall not be charged
4 for making the application.

5 (2) Upon application and order for renewal of the judgment to
6 the extended time for enforcing the judgment.

7 *SEC. 4. Section 288.3 is added to the Penal Code, to read:*

8 288.3. (a) Any adult who contacts or communicates with a
9 minor under 16 years of age, or who contacts or communicates
10 with another person whom the adult believes to be a minor under
11 16 years of age, with the intent to commit any lewd or lascivious
12 act, is guilty of a misdemeanor or felony.

13 (b) Prosecution under this section shall not prohibit
14 prosecution under any other provision of law, including
15 prosecution for intent to commit a sex offense.

16 (c) If the defendant acts with the requisite intent, it is not a
17 defense to prosecution under this section that the person
18 contacted by the defendant was a law enforcement officer posing
19 as a minor.

20 (d) As used in this section, “contacts or communicates” has
21 the same meaning as in subparagraph (B) of paragraph (3) of
22 subdivision (b) of Section 272.

23 *SEC. 5. Section 288.7 is added to the Penal Code, to read:*

24 288.7. Any person 18 years of age or older who engages in
25 sexual intercourse or sodomy with a child who is 10 years of age
26 or younger is guilty of a felony and shall be punished by
27 imprisonment in the state prison for a term of 25 years to life.

28 *SEC. 6. The heading of Chapter 5.5 (commencing with*
29 *Section 290) is added to Title 9 of Part 2 of the Penal Code, to*
30 *read:*

31
32 *CHAPTER 5.5. SEX OFFENDERS*
33

34 *SEC. 7. Section 290 of the Penal Code is amended to read:*

35 290. (a) (1) (A) Every person described in paragraph (2),
36 for the rest of his or her life while residing in California, or while
37 attending school or working in California, as described in
38 subparagraph (G), shall be required to register with the chief of
39 police of the city in which he or she is residing, or the sheriff of
40 the county if he or she is residing in an unincorporated area or

1 city that has no police department, and, additionally, with the
2 chief of police of a campus of the University of California, the
3 California State University, or community college if he or she is
4 residing upon the campus or in any of its facilities, within five
5 working days of coming into, or changing his or her residence
6 within, any city, county, or city and county, or campus in which
7 he or she temporarily resides.

8 (B) If the person who is registering has more than one
9 residence address at which he or she regularly resides, he or she
10 shall register in accordance with subparagraph (A) in each of the
11 jurisdictions in which he or she regularly resides, regardless of
12 the number of days or nights spent there. If all of the addresses
13 are within the same jurisdiction, the person shall provide the
14 registering authority with all of the addresses where he or she
15 regularly resides.

16 (C) Every person described in paragraph (2), for the rest of
17 his or her life while living as a transient in California shall be
18 required to register, as follows:

19 (i) A transient must register, or reregister if the person has
20 previously registered, within five working days from release
21 from incarceration, placement or commitment, or release on
22 probation, pursuant to paragraph (1) of subdivision (a), except
23 that if the person previously registered as a transient less than 30
24 days from the date of his or her release from incarceration, he or
25 she does not need to reregister as a transient until his or her next
26 required 30-day update of registration. If a transient is not
27 physically present in any one jurisdiction for five consecutive
28 working days, he or she must register in the jurisdiction in which
29 he or she is physically present on the fifth working day following
30 release, pursuant to paragraph (1) of subdivision (a). Beginning
31 on or before the 30th day following initial registration upon
32 release, a transient must reregister no less than once every 30
33 days thereafter. A transient shall register with the chief of police
34 of the city in which he or she is physically present within that
35 30-day period, or the sheriff of the county if he or she is
36 physically present in an unincorporated area or city that has no
37 police department, and additionally, with the chief of police of a
38 campus of the University of California, the California State
39 University, or community college if he or she is physically
40 present upon the campus or in any of its facilities. A transient

1 must reregister no less than once every 30 days regardless of the
2 length of time he or she has been physically present in the
3 particular jurisdiction in which he or she reregisters. If a transient
4 fails to reregister within any 30-day period, he or she may be
5 prosecuted in any jurisdiction in which he or she is physically
6 present.

7 (ii) A transient who moves to a residence shall have five
8 working days within which to register at that address, in
9 accordance with subparagraph (A) of paragraph (1) of
10 subdivision (a). A person registered at a residence address in
11 accordance with subparagraph (A) of paragraph (1) of
12 subdivision (a), who becomes transient shall have five working
13 days within which to reregister as a transient in accordance with
14 clause (i).

15 (iii) Beginning on his or her first birthday following
16 registration, a transient shall register annually, within five
17 working days of his or her birthday, to update his or her
18 registration with the entities described in clause (i). A transient
19 shall register in whichever jurisdiction he or she is physically
20 present on that date. At the 30-day updates and the annual
21 update, a transient shall provide current information as required
22 on the Department of Justice annual update form, including the
23 information described in subparagraphs (A) to (C), inclusive, of
24 paragraph (2) of subdivision (e), and the information specified in
25 clause (iv).

26 (iv) A transient shall, upon registration and reregistration,
27 provide current information as required on the Department of
28 Justice registration forms, and shall also list the places where he
29 or she sleeps, eats, works, frequents, and engages in leisure
30 activities. If a transient changes or adds to the places listed on the
31 form during the 30-day period, he or she does not need to report
32 the new place or places until the next required reregistration.

33 (v) Failure to comply with the requirement of reregistering
34 every 30 days following initial registration pursuant to clause (i)
35 of this subparagraph shall be punished in accordance with
36 paragraph (6) of subdivision (g). Failure to comply with any
37 other requirement of this section shall be punished in accordance
38 with either paragraph (1) or (2) of subdivision (g).

39 (vi) A transient who moves out of state shall inform, in person,
40 the chief of police in the city in which he or she is physically

1 present, or the sheriff of the county if he or she is physically
2 present in an unincorporated area or city that has no police
3 department, within five working days, of his or her move out of
4 state. The transient shall inform that registering agency of his or
5 her planned destination, residence or transient location out of
6 state, and any plans he or she has to return to California, if
7 known. The law enforcement agency shall, within three days
8 after receipt of this information, forward a copy of the change of
9 location information to the Department of Justice. The
10 department shall forward appropriate registration data to the law
11 enforcement agency having local jurisdiction of the new place of
12 residence or location.

13 (vii) For purposes of this section, “transient” means a person
14 who has no residence. “Residence” means one or more addresses
15 at which a person regularly resides, regardless of the number of
16 days or nights spent there, such as a shelter or structure that can
17 be located by a street address, including, but not limited to,
18 houses, apartment buildings, motels, hotels, homeless shelters,
19 and recreational and other vehicles.

20 (viii) The transient registrant’s duty to update his or her
21 registration no less than every 30 days shall begin with his or her
22 second transient update following the date this subdivision
23 became effective.

24 (D) Beginning on his or her first birthday following
25 registration or change of address, the person shall be required to
26 register annually, within five working days of his or her birthday,
27 to update his or her registration with the entities described in
28 subparagraph (A). At the annual update, the person shall provide
29 current information as required on the Department of Justice
30 annual update form, including the information described in
31 subparagraphs (A) to (C), inclusive, of paragraph (2) of
32 subdivision (e).

33 (E) In addition, every person who has ever been adjudicated a
34 sexually violent predator, as defined in Section 6600 of the
35 Welfare and Institutions Code, shall, after his or her release from
36 custody, verify his or her address no less than once every 90 days
37 and place of employment, including the name and address of the
38 employer, in a manner established by the Department of Justice.

39 (F) No entity shall require a person to pay a fee to register or
40 update his or her registration pursuant to this section. The

1 registering agency shall submit registrations, including annual
2 updates or changes of address, directly into the Department of
3 Justice Violent Crime Information Network (VCIN). *The*
4 *registering agency shall give the registrant a copy of the*
5 *completed Department of Justice form each time the person*
6 *registers or reregisters, including at the annual update.*

7 (G) Persons required to register in their state of residence who
8 are out-of-state residents employed, or carrying on a vocation in
9 California on a full-time or part-time basis, with or without
10 compensation, for more than 14 days, or for an aggregate period
11 exceeding 30 days in a calendar year, shall register in accordance
12 with subparagraph (A). Persons described in paragraph (2) who
13 are out-of-state residents enrolled in any educational institution
14 in California, as defined in Section 22129 of the Education Code,
15 on a full-time or part-time basis, shall register in accordance with
16 subparagraph (A). The place where the out-of-state resident is
17 located, for purposes of registration, shall be the place where the
18 person is employed, carrying on a vocation, or attending school.
19 The out-of-state resident subject to this subparagraph shall, in
20 addition to the information required pursuant to subdivision (e),
21 provide the registering authority with the name of his or her place
22 of employment or the name of the school attended in California,
23 and his or her address or location in his or her state of residence.
24 The registration requirement for persons subject to this
25 subparagraph shall become operative on November 25, 2000.
26 The terms “employed or carries on a vocation” include
27 employment whether or not financially compensated,
28 volunteered, or performed for government or educational benefit.

29 (2) The following persons shall be required to register
30 pursuant to paragraph (1):

31 (A) Any person who, since July 1, 1944, has been or is
32 hereafter convicted in any court in this state or in any federal or
33 military court of a violation of Section 207 or 209 committed
34 with intent to violate Section 261, 286, 288, 288a, or 289,
35 Section 220, except assault to commit mayhem, Section 243.4,
36 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section
37 261, or paragraph (1) of subdivision (a) of Section 262 involving
38 the use of force or violence for which the person is sentenced to
39 the state prison, Section 264.1, 266, or 266c, subdivision (b) of
40 Section 266h, subdivision (b) of Section 266i, Section 266j, 267,

1 269, 285, 286, 288, 288a, 288.5, 288.7, or 289, Section 311.1,
2 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
3 311.10, 311.11, 626.83, or 647.6, former Section 647a,
4 subdivision (c) of Section 653f, subdivision 1 or 2 of Section
5 314, any offense involving lewd or lascivious conduct under
6 Section 272, or any felony violation of Section 288.2; or any
7 statutory predecessor that includes all elements of one of the
8 above-mentioned offenses; or any person who since that date has
9 been or is hereafter convicted of the attempt to commit any of the
10 above-mentioned offenses.

11 (B) Any person who, since July 1, 1944, has been or hereafter
12 is released, discharged, or paroled from a penal institution where
13 he or she was confined because of the commission or attempted
14 commission of one of the offenses described in subparagraph
15 (A).

16 (C) Any person who, since July 1, 1944, has been or hereafter
17 is determined to be a mentally disordered sex offender under
18 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
19 of Division 6 of the Welfare and Institutions Code or any person
20 who has been found guilty in the guilt phase of a trial for an
21 offense for which registration is required by this section but who
22 has been found not guilty by reason of insanity in the sanity
23 phase of the trial.

24 (D) (i) Any person who, since July 1, 1944, has been, or is
25 hereafter convicted in any other court, including any state,
26 federal, or military court, of any offense that, if committed or
27 attempted in this state, would have been punishable as one or
28 more of the offenses described in subparagraph (A).

29 (ii) Any person ordered by any other court, including any
30 state, federal, or military court, to register as a sex offender for
31 any offense, if the court found at the time of conviction or
32 sentencing that the person committed the offense as a result of
33 sexual compulsion or for purposes of sexual gratification.

34 (iii) Except as provided in clause (iv), any person who would
35 be required to register while residing in the state of conviction for
36 a sex offense committed in that state.

37 (iv) Clause (iii) shall not apply to a person required to register
38 in the state of conviction if the conviction was for the equivalent
39 of one of the following offenses, and the person is not subject to
40 clause (i):

1 (I) Indecent exposure, pursuant to Section 314.

2 (II) Unlawful sexual intercourse, pursuant to Section 261.5.

3 (III) Incest, pursuant to Section 285.

4 (IV) Sodomy, pursuant to Section 286, or oral copulation,
5 pursuant to Section 288a, provided that the offender notifies the
6 Department of Justice that the sodomy or oral copulation
7 conviction was for conduct between consenting adults, as
8 described in subparagraph (F) of paragraph (2) of subdivision (a),
9 and the department is able, upon the exercise of reasonable
10 diligence, to verify that fact.

11 (E) Any person ordered by any court to register pursuant to
12 this section for any offense not included specifically in this
13 section if the court finds at the time of conviction or sentencing
14 that the person committed the offense as a result of sexual
15 compulsion or for purposes of sexual gratification. The court
16 shall state on the record the reasons for its findings and the
17 reasons for requiring registration.

18 (F) Any person required to register pursuant to any provision
19 of this section, regardless of whether the person's conviction has
20 been dismissed pursuant to Section 1203.4, unless the person
21 obtains a certificate of rehabilitation and is entitled to relief from
22 registration pursuant to Section 290.5.

23 (G) (i) Notwithstanding any other subdivision, a person who
24 was convicted before January 1, 1976, under subdivision (a) of
25 Section 286, or Section 288a, shall not be required to register
26 pursuant to this section for that conviction if the conviction was
27 for conduct between consenting adults that was decriminalized
28 by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the
29 Statutes of 1976. The Department of Justice shall remove that
30 person from the Sex Offender Registry, and the person is
31 discharged from his or her duty to register pursuant to the
32 following procedure:

33 (I) The person submits to the Department of Justice official
34 documentary evidence, including court records or police reports,
35 that demonstrate that the person's conviction pursuant to either of
36 those sections was for conduct between consenting adults that
37 was decriminalized; or

38 (II) The person submits to the department a declaration stating
39 that the person's conviction pursuant to either of those sections
40 was for consensual conduct between adults that has been

1 decriminalized. The declaration shall be confidential and not a
2 public record, and shall include the person's name, address,
3 telephone number, date of birth, and a summary of the
4 circumstances leading to the conviction, including the date of the
5 conviction and county of the occurrence.

6 (III) The department shall determine whether the person's
7 conviction was for conduct between consensual adults that has
8 been decriminalized. If the conviction was for consensual
9 conduct between adults that has been decriminalized, and the
10 person has no other offenses for which he or she is required to
11 register pursuant to this section, the department shall, within 60
12 days of receipt of those documents, notify the person that he or
13 she is relieved of the duty to register, and shall notify the local
14 law enforcement agency with which the person is registered that
15 he or she has been relieved of the duty to register. The local law
16 enforcement agency shall remove the person's registration from
17 its files within 30 days of receipt of notification. If the
18 documentary or other evidence submitted is insufficient to
19 establish the person's claim, the department shall, within 60 days
20 of receipt of those documents, notify the person that his or her
21 claim cannot be established, and that the person shall continue to
22 register pursuant to this section. The department shall provide,
23 upon the person's request, any information relied upon by the
24 department in making its determination that the person shall
25 continue to register pursuant to this section. Any person whose
26 claim has been denied by the department pursuant to this clause
27 may petition the court to appeal the department's denial of the
28 person's claim.

29 (ii) On or before July 1, 1998, the department shall make a
30 report to the Legislature concerning the status of persons who
31 may come under the provisions of this subparagraph, including
32 the number of persons who were convicted before January 1,
33 1976, under subdivision (a) of Section 286 or Section 288a and
34 are required to register under this section, the average age of
35 these persons, the number of these persons who have any
36 subsequent convictions for a registerable sex offense, and the
37 number of these persons who have sought successfully or
38 unsuccessfully to be relieved of their duty to register under this
39 section.

(b) (1) Any person who is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official shall at the same time forward a current photograph of the person to the Department of Justice.

(2) The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement or hospital shall retain one copy.

(c) (1) Any person who is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation, shall, prior to release or discharge, be informed of the duty to register under this section by the probation department, and a probation officer shall require the person to read and sign any

1 form that may be required by the Department of Justice, stating
2 that the duty of the person to register under this section has been
3 explained to him or her. The probation officer shall obtain the
4 address where the person expects to reside upon release or
5 discharge and shall report within three days the address to the
6 Department of Justice. The probation officer shall give one copy
7 of the form to the person, send one copy to the Department of
8 Justice, and forward one copy to the appropriate law enforcement
9 agency or agencies having local jurisdiction where the person
10 expects to reside upon his or her discharge, parole, or release.

11 (2) Any person who is convicted in this state of the
12 commission or attempted commission of any of the offenses
13 specified in subdivision (a) and who is granted conditional
14 release without supervised probation, or discharged upon
15 payment of a fine, shall, prior to release or discharge, be
16 informed of the duty to register under this section in open court
17 by the court in which the person has been convicted, and the
18 court shall require the person to read and sign any form that may
19 be required by the Department of Justice, stating that the duty of
20 the person to register under this section has been explained to
21 him or her. If the court finds that it is in the interest of the
22 efficiency of the court, the court may assign the bailiff to require
23 the person to read and sign forms under this section. The court
24 shall obtain the address where the person expects to reside upon
25 release or discharge and shall report within three days the address
26 to the Department of Justice. The court shall give one copy of the
27 form to the person, send one copy to the Department of Justice,
28 and forward one copy to the appropriate law enforcement agency
29 or agencies having local jurisdiction where the person expects to
30 reside upon his or her discharge, parole, or release.

31 (d) (1) Any person who, on or after January 1, 1986, is
32 discharged or paroled from the Department of ~~the Youth~~
33 ~~Authority~~ *Corrections and Rehabilitation* to the custody of which
34 he or she was committed after having been adjudicated a ward of
35 the juvenile court pursuant to Section 602 of the Welfare and
36 Institutions Code because of the commission or attempted
37 commission of any offense described in paragraph (3) shall be
38 subject to registration under the procedures of this section.

39 (2) Any person who is discharged or paroled from a facility in
40 another state that is equivalent to the ~~Department of the Youth~~

1 ~~Authority~~ *Division of Juvenile Justice*, to the custody of which he
2 or she was committed because of an offense which, if committed
3 or attempted in this state, would have been punishable as one or
4 more of the offenses described in paragraph (3), shall be subject
5 to registration under the procedures of this section.

6 (3) Any person described in this subdivision who committed
7 an offense in violation of any of the following provisions shall be
8 required to register pursuant to this section:

9 (A) Assault with intent to commit rape, sodomy, oral
10 copulation, or any violation of Section 264.1, 288, or 289 under
11 Section 220.

12 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6)
13 of subdivision (a) of Section 261, Section 264.1, 266c, or 267,
14 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
15 Section 286, Section 288 or 288.5, paragraph (1) of subdivision
16 (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)
17 of Section 289, or Section 647.6.

18 (C) A violation of Section 207 or 209 committed with the
19 intent to violate Section 261, 286, 288, 288a, or 289.

20 (4) Prior to discharge or parole from the Department of ~~the~~
21 ~~Youth Authority~~ *Corrections and Rehabilitation*, any person who
22 is subject to registration under this subdivision shall be informed
23 of the duty to register under the procedures set forth in this
24 section. ~~Department of the Youth Authority~~ officials shall
25 transmit the required forms and information to the Department of
26 Justice.

27 (5) All records specifically relating to the registration in the
28 custody of the Department of Justice, law enforcement agencies,
29 and other agencies or public officials shall be destroyed when the
30 person who is required to register has his or her records sealed
31 under the procedures set forth in Section 781 of the Welfare and
32 Institutions Code. This subdivision shall not be construed as
33 requiring the destruction of other criminal offender or juvenile
34 records relating to the case that are maintained by the
35 Department of Justice, law enforcement agencies, the juvenile
36 court, or other agencies and public officials unless ordered by a
37 court under Section 781 of the Welfare and Institutions Code.

38 (e) (1) On or after January 1, 1998, upon incarceration,
39 placement, or commitment, or prior to release on probation, any
40 person who is required to register under this section shall

1 preregister. The preregistering official shall be the admitting
2 officer at the place of incarceration, placement, or commitment,
3 or the probation officer if the person is to be released on
4 probation. The preregistration shall consist of all of the
5 following:

6 (A) A preregistration statement in writing, signed by the
7 person, giving information that shall be required by the
8 Department of Justice.

9 (B) The fingerprints and a current photograph of the person.

10 (C) Any person who is preregistered pursuant to this
11 subdivision is required to be preregistered only once.

12 (2) A person described in paragraph (2) of subdivision (a)
13 shall register, or reregister if the person has previously registered,
14 upon release from incarceration, placement, commitment, or
15 release on probation pursuant to paragraph (1) of subdivision (a).
16 The registration shall consist of all of the following:

17 (A) A statement in writing signed by the person, giving
18 information as shall be required by the Department of Justice and
19 giving the name and address of the person's employer, and the
20 address of the person's place of employment if that is different
21 from the employer's main address.

22 (B) The fingerprints and a current photograph of the person
23 taken by the registering official.

24 (C) The license plate number of any vehicle owned by,
25 regularly driven by, or registered in the name of the person.

26 (D) Notice to the person that, in addition to the requirements
27 of paragraph (4), he or she may have a duty to register in any
28 other state where he or she may relocate.

29 (E) Copies of adequate proof of residence, which shall be
30 limited to a California driver's license, California identification
31 card, recent rent or utility receipt, printed personalized checks or
32 other recent banking documents showing that person's name and
33 address, or any other information that the registering official
34 believes is reliable. If the person has no residence and no
35 reasonable expectation of obtaining a residence in the foreseeable
36 future, the person shall so advise the registering official and shall
37 sign a statement provided by the registering official stating that
38 fact. Upon presentation of proof of residence to the registering
39 official or a signed statement that the person has no residence,
40 the person shall be allowed to register. If the person claims that

1 he or she has a residence but does not have any proof of
2 residence, he or she shall be allowed to register but shall furnish
3 proof of residence within 30 days of the date he or she is allowed
4 to register.

5 (3) Within three days thereafter, the preregistering official or
6 the registering law enforcement agency or agencies shall forward
7 the statement, fingerprints, photograph, and vehicle license plate
8 number, if any, to the Department of Justice.

9 (f) (1) (A) Any person who was last registered at a residence
10 address pursuant to this section who changes his or her residence
11 address, whether within the jurisdiction in which he or she is
12 currently registered or to a new jurisdiction inside or outside the
13 state, shall, in person, within five working days of the move,
14 inform the law enforcement agency or agencies with which he or
15 she last registered of the move, the new address or transient
16 location, if known, and any plans he or she has to return to
17 California.

18 (B) If the person does not know the new residence address or
19 location at the time of the move, the registrant shall, in person,
20 within five working days of the move, inform the last registering
21 agency or agencies that he or she is moving. The person shall
22 later notify the last registering agency or agencies, in writing,
23 sent by certified or registered mail, of the new address or location
24 within five working days of moving into the new residence
25 address or location, whether temporary or permanent.

26 (C) The law enforcement agency or agencies shall, within
27 three working days after receipt of this information, forward a
28 copy of the change of address information to the Department of
29 Justice. The Department of Justice shall forward appropriate
30 registration data to the law enforcement agency or agencies
31 having local jurisdiction of the new place of residence .

32 (2) If the person's new address is in a Department of ~~the~~
33 ~~Youth Authority facility or a state prison~~ *Corrections and*
34 *Rehabilitation facility* or state mental institution, an official of
35 the place of incarceration, placement, or commitment shall,
36 within 90 days of receipt of the person, forward the registrant's
37 change of address information to the Department of Justice. The
38 agency need not provide a physical address for the registrant but
39 shall indicate that he or she is serving a period of incarceration or
40 commitment in a facility under the agency's jurisdiction. This

1 paragraph shall apply to persons received in a ~~Department of the~~
2 ~~Youth Authority facility or a state prison or department facility~~
3 ~~or~~ state mental institution on or after January 1, 1999. The
4 Department of Justice shall forward the change of address
5 information to the agency with which the person last registered.

6 (3) If any person who is required to register pursuant to this
7 section changes his or her name, the person shall inform, in
8 person, the law enforcement agency or agencies with which he or
9 she is currently registered within five working days. The law
10 enforcement agency or agencies shall forward a copy of this
11 information to the Department of Justice within three working
12 days of its receipt.

13 (g) (1) Any person who is required to register under this
14 section based on a misdemeanor conviction or juvenile
15 adjudication who willfully violates any requirement of this
16 section is guilty of a misdemeanor punishable by imprisonment
17 in a county jail not exceeding one year.

18 (2) Except as provided in paragraphs (5), (7), and (9), any
19 person who is required to register under this section based on a
20 felony conviction or juvenile adjudication who willfully violates
21 any requirement of this section or who has a prior conviction or
22 juvenile adjudication for the offense of failing to register under
23 this section and who subsequently and willfully violates any
24 requirement of this section is guilty of a felony and shall be
25 punished by imprisonment in the state prison for 16 months, or
26 two or three years.

27 If probation is granted or if the imposition or execution of
28 sentence is suspended, it shall be a condition of the probation or
29 suspension that the person serve at least 90 days in a county jail.
30 The penalty described in this paragraph shall apply whether or
31 not the person has been released on parole or has been discharged
32 from parole.

33 (3) Any person determined to be a mentally disordered sex
34 offender or who has been found guilty in the guilt phase of trial
35 for an offense for which registration is required under this
36 section, but who has been found not guilty by reason of insanity
37 in the sanity phase of the trial, or who has had a petition
38 sustained in a juvenile adjudication for an offense for which
39 registration is required under this section pursuant to subdivision
40 (d), but who has been found not guilty by reason of insanity, who

1 willfully violates any requirement of this section is guilty of a
2 misdemeanor and shall be punished by imprisonment in a county
3 jail not exceeding one year. For any second or subsequent willful
4 violation of any requirement of this section, the person is guilty
5 of a felony and shall be punished by imprisonment in the state
6 prison for 16 months, or two or three years.

7 (4) If, after discharge from parole, the person is convicted of a
8 felony or suffers a juvenile adjudication as specified in this
9 subdivision, he or she shall be required to complete parole of at
10 least one year, in addition to any other punishment imposed
11 under this subdivision. A person convicted of a felony as
12 specified in this subdivision may be granted probation only in the
13 unusual case where the interests of justice would best be served.
14 When probation is granted under this paragraph, the court shall
15 specify on the record and shall enter into the minutes the
16 circumstances indicating that the interests of justice would best
17 be served by the disposition.

18 (5) Any person who has ever been adjudicated a sexually
19 violent predator, as defined in Section 6600 of the Welfare and
20 Institutions Code, and who fails to verify his or her registration
21 every 90 days as required pursuant to subparagraph (E) of
22 paragraph (1) of subdivision (a), shall be punished by
23 imprisonment in the state prison, or in a county jail not exceeding
24 one year.

25 (6) Except as otherwise provided in paragraph (5), any person
26 who is required to register or reregister pursuant to clause (i) of
27 subparagraph (C) of paragraph (1) of subdivision (a) and
28 willfully fails to comply with the requirement that he or she
29 reregister no less than every 30 days is guilty of a misdemeanor
30 and shall be punished by imprisonment in a county jail at least 30
31 days, but not exceeding six months. A person who willfully fails
32 to comply with the requirement that he or she reregister no less
33 than every 30 days shall not be charged with this violation more
34 often than once for a failure to register in any period of 90 days.
35 Any person who willfully commits a third or subsequent
36 violation of the requirements of subparagraph (C) of paragraph
37 (1) of subdivision (a) that he or she reregister no less than every
38 30 days shall be punished in accordance with either paragraph (1)
39 or (2) of this subdivision.

1 (7) Any person who fails to provide proof of residence as
2 required by subparagraph (E) of paragraph (2) of subdivision (e),
3 regardless of the offense upon which the duty to register is based,
4 is guilty of a misdemeanor punishable by imprisonment in a
5 county jail not exceeding six months.

6 (8) Any person who is required to register under this section
7 who willfully violates any requirement of this section is guilty of
8 a continuing offense as to each requirement he or she violated.

9 (9) In addition to any other penalty imposed under this
10 subdivision, the failure to provide information required on
11 registration and reregistration forms of the Department of Justice,
12 or the provision of false information, is a crime punishable by
13 imprisonment in a county jail for a period not exceeding one
14 year.

15 (h) Whenever any person is released on parole or probation
16 and is required to register under this section but fails to do so
17 within the time prescribed, the parole authority, ~~the Youthful~~
18 ~~Offender Parole Board~~, or the court, as the case may be, shall
19 order the parole or probation of the person revoked. For purposes
20 of this subdivision, “parole authority” has the same meaning as
21 described in Section 3000.

22 (i) Except as otherwise provided by law, the statements,
23 photographs, and fingerprints required by this section shall not be
24 open to inspection by the public or by any person other than a
25 regularly employed peace officer or other law enforcement
26 officer.

27 (j) In any case in which a person who would be required to
28 register pursuant to this section for a felony conviction is to be
29 temporarily sent outside the institution where he or she is
30 confined on any assignment within a city or county including
31 firefighting, disaster control, or of whatever nature the
32 assignment may be, the local law enforcement agency having
33 jurisdiction over the place or places where the assignment shall
34 occur shall be notified within a reasonable time prior to removal
35 from the institution. This subdivision shall not apply to any
36 person who is temporarily released under guard from the
37 institution where he or she is confined.

38 (k) As used in this section, “mentally disordered sex offender”
39 includes any person who has been determined to be a sexual
40 psychopath or a mentally disordered sex offender under any

1 provision which, on or before January 1, 1976, was contained in
2 Division 6 (commencing with Section 6000) of the Welfare and
3 Institutions Code.

4 (l) (1) Every person who, prior to January 1, 1997, is required
5 to register under this section, shall be notified whenever he or she
6 next reregisters of the reduction of the registration period from
7 14 to 5 working days. This notice shall be provided in writing by
8 the registering agency or agencies. Failure to receive this
9 notification shall be a defense against the penalties prescribed by
10 subdivision (g) if the person did register within 14 days.

11 (2) Every person who, as a sexually violent predator, as
12 defined in Section 6600 of the Welfare and Institutions Code, is
13 required to verify his or her registration every 90 days, shall be
14 notified whenever he or she next registers of his or her increased
15 registration obligations. This notice shall be provided in writing
16 by the registering agency or agencies. Failure to receive this
17 notice shall be a defense against the penalties prescribed by
18 paragraph (5) of subdivision (g).

19 (m) The registration provisions of this section are applicable to
20 every person described in this section, without regard to when his
21 or her crime or crimes were committed or his or her duty to
22 register pursuant to this section arose, and to every offense
23 described in this section, regardless of when it was committed.

24 (n) *On or before January 1, 2010, the Department of Justice*
25 *shall renovate the VCIN to do the following:*

26 (1) *Correct all software deficiencies affecting data integrity*
27 *and include designated data fields for all mandated sex offender*
28 *data.*

29 (2) *Consolidate and simplify program logic, thereby*
30 *increasing system performance and reducing system*
31 *maintenance costs.*

32 (3) *Provide all necessary data storage, processing, and search*
33 *capabilities.*

34 (4) *Provide law enforcement agencies with full Internet access*
35 *to all sex offender data and photos.*

36 (5) *Incorporate a flexible design structure to readily meet*
37 *future demands for enhanced system functionality, including*
38 *public Internet access to sex offender information pursuant to*
39 *Section 290.46.*

40 SEC. 8. *Section 290.03 is added to the Penal Code, to read:*

1 290.03. (a) *The Legislature finds and declares that a*
2 *comprehensive system of risk assessment, supervision,*
3 *monitoring and containment for registered sex offenders residing*
4 *in California communities is necessary to enhance public safety*
5 *and reduce the risk of recidivism posed by these offenders. The*
6 *Legislature further affirms and incorporates the following*
7 *findings and declarations, previously reflected in its enactment of*
8 *“Megan’s Law”:*

9 (1) *Sex offenders pose a potentially high risk of committing*
10 *further sex offenses after release from incarceration or*
11 *commitment, and the protection of the public from reoffending by*
12 *these offenders is a paramount public interest.*

13 (2) *It is a compelling and necessary public interest that the*
14 *public have information concerning persons convicted of offenses*
15 *involving unlawful sexual behavior collected pursuant to*
16 *Sections 290 and 290.4 to allow members of the public to*
17 *adequately protect themselves and their children from these*
18 *persons.*

19 (3) *Persons convicted of these offenses involving unlawful*
20 *sexual behavior have a reduced expectation of privacy because*
21 *of the public’s interest in public safety.*

22 (4) *In balancing the offenders’ due process and other rights*
23 *against the interests of public security, the Legislature finds that*
24 *releasing information about sex offenders under the*
25 *circumstances specified in the Sex Offender Punishment, Control,*
26 *and Containment Act of 2006 will further the primary*
27 *government interest of protecting vulnerable populations from*
28 *potential harm.*

29 (5) *The registration of sex offenders, the public release of*
30 *specified information about certain sex offenders pursuant to*
31 *Sections 290 and 290.4, and public notice of the presence of*
32 *certain high risk sexual offenders in communities will further the*
33 *governmental interests of public safety and public scrutiny of the*
34 *criminal and mental health systems that deal with these*
35 *offenders.*

36 (6) *To protect the safety and general welfare of the people of*
37 *this state, it is necessary to provide for continued registration of*
38 *sex offenders, for the public release of specified information*
39 *regarding certain more serious sex offenders, and for community*
40 *notification regarding high risk sex offenders who are about to*

1 *be released from custody or who already reside in communities*
2 *in this state. This policy of authorizing the release of necessary*
3 *and relevant information about serious and high risk sex*
4 *offenders to members of the general public is a means of*
5 *assuring public protection and shall not be construed as punitive.*

6 *(7) The Legislature also declares, however, that in making*
7 *information available about certain sex offenders to the public, it*
8 *does not intend that the information be used to inflict retribution*
9 *or additional punishment on any person convicted of a sexual*
10 *offense. While the Legislature is aware of the possibility of*
11 *misuse, it finds that the dangers to the public of nondisclosure far*
12 *outweigh the risk of possible misuse of the information. The*
13 *Legislature is further aware of studies in Oregon and*
14 *Washington indicating that community notification laws and*
15 *public release of similar information in those states have resulted*
16 *in little criminal misuse of the information and that the*
17 *enhancement to public safety has been significant.*

18 *(b) In enacting the Sex Offender Punishment, Control and*
19 *Containment Act of 2006, the Legislature hereby creates a*
20 *standardized, statewide system to identify, assess, monitor and*
21 *contain known sex offenders for the purpose of reducing the risk*
22 *of recidivism posed by these offenders, thereby protecting victims*
23 *and potential victims from future harm.*

24 *SEC. 9. Section 290.04 is added to the Penal Code, to read:*

25 *290.04. (a) Commencing on January 1, 2007, all adult males*
26 *who are required to register as a sex offender pursuant to*
27 *Section 290 shall be subject to assessment by the STATIC-99*
28 *assessment tool. The STATIC-99 and its successor instruments*
29 *shall be the sole actuarial risk assessment instrument used for*
30 *registered sex offenders.*

31 *(b) The Department of Corrections and Rehabilitation, in*
32 *consultation with the Attorney General and local law*
33 *enforcement, shall establish and implement a schedule for*
34 *conducting, no later than January 1, 2012, STATIC-99*
35 *assessments of adult male registered sex offenders living in*
36 *California who no longer are in custody, on probation, or on*
37 *parole as of the effective date of this section. These persons shall*
38 *be administered a STATIC-99 assessment according to the*
39 *implementation schedule during their annual registration update*
40 *by persons authorized to administer the instrument. The schedule*

1 *adopted by the department shall give priority to assessing those*
2 *registrants with the most recent sex offense convictions. Any*
3 *adult male required to register as a sex offender pursuant to*
4 *Section 290 may seek an assessment before their scheduled*
5 *assessment period at his or her own cost as determined by the*
6 *department. These assessments shall be conducted in a manner*
7 *consistent with the requirements of this section.*

8 *(c) On or before January 1, 2010, the Department of*
9 *Corrections and Rehabilitation, in consultation with the*
10 *Department of Mental Health and experts in sex offender risk*
11 *assessment and the use of actuarial instruments in predicting sex*
12 *offender risk, shall periodically evaluate and update the*
13 *STATIC-99 or its successor instrument to ensure that*
14 *California's standardized actuarial assessment instrument for*
15 *assessing sex offender risk reflects reliable, objective and*
16 *well-established protocols for predicting sex offender risk of*
17 *recidivism, has been scientifically validated with multiple*
18 *cross-validations, and is widely accepted by the courts.*

19 *(d) On or before January 1, 2008, the Department of*
20 *Corrections and Rehabilitation, in consultation with the*
21 *Department of Mental Health and experts in sex offender risk*
22 *assessment and the use of actuarial instruments in predicting sex*
23 *offender risk, shall research actuarial risk assessment tools for*
24 *female and juvenile registered sex offenders, and shall make*
25 *recommendations to the Governor and to the Legislature*
26 *concerning the appropriate actuarial risk assessment instrument*
27 *to be used to assess those populations.*

28 *(e) On or before January 1, 2008, the Department of*
29 *Corrections and Rehabilitation, in consultation with the*
30 *Department of Mental Health and experts in sex offender risk*
31 *assessment and the use of actuarial instruments in predicting sex*
32 *offender risk, shall establish a training program for probation*
33 *officers, parole officers, and any other persons authorized by law*
34 *to perform risk assessment. The department shall use an expert in*
35 *the field of risk assessment and the use of actuarial instruments*
36 *in predicting sex offender risk to conduct periodic training.*
37 *Probation departments and regional parole officers shall*
38 *designate persons within their organizations to attend a yearly*
39 *training and shall train others within their organizations who are*

1 *designated to perform risk assessments as required or authorized*
2 *by law.*

3 *SEC. 10. Section 290.05 is added to the Penal Code, to read:*

4 *290.05. (a) Commencing on January 1, 2007 and subject to*
5 *the provisions of Section 290.04, the actuarial risk assessment*
6 *instrument for adult males required to register as sex offenders*
7 *pursuant to Section 290 shall be the STATIC-99.*

8 *(b) There shall be four risk assessment tier levels assignable to*
9 *registered sex offenders under this instrument: low,*
10 *moderate-low, moderate-high, and high.*

11 *SEC. 11. Section 290.06 is added to the Penal Code, to read:*

12 *290.06. (a) Probation officers trained in the use of*
13 *STATIC-99 shall perform a presentencing risk assessment of*
14 *every adult male convicted of an offense that requires him to*
15 *register as a sex offender pursuant to Section 290. Probation*
16 *officers shall assign a risk assessment tier level score to the*
17 *assessment, and shall include that score in a presentencing or*
18 *probation officer's report. Probation officers who conduct sex*
19 *offender risk assessments shall be trained in an approved*
20 *program established pursuant to subdivision (d) of Section*
21 *290.04, and shall receive updated training no less frequently*
22 *than every two years, as determined by the Department of*
23 *Corrections and Rehabilitation.*

24 *(b) (1) The designated probation officer shall compile a Facts*
25 *of Offense Sheet for every adult male convicted of an offense that*
26 *requires him to register as a sex offender under Section 290*
27 *containing the following information concerning the offender and*
28 *his offense: name; all known aliases; CII number; physical*
29 *description; criminal history, including registerable sex offenses,*
30 *other offenses, and arrests that did not result in conviction for*
31 *sexual or violent offenses; unique circumstances of the offense*
32 *for which registration is required, including but not limited to,*
33 *weapons used or victim pattern; risk assessment tier level; and*
34 *type of victims targeted in the past. The defendant may move the*
35 *court to correct the Facts of the Offense Sheet. Any corrections*
36 *to the Facts of the Offense Sheet offered by the defendant shall be*
37 *made consistent with Section 1204. The Facts of Offense Sheet*
38 *shall be included in the probation officer's report and shall also*
39 *be forwarded to the incarcerating agency, if any. A copy of the*
40 *Facts of Offense Sheet shall be sent by the probation department*

1 to the registering law enforcement agency in the jurisdiction
2 where the person will reside on supervised probation within
3 three days of the person's release on probation. In addition,
4 probation shall send a copy of the Facts of Offense Sheet to the
5 Department of Justice Sex Offender Tracking Program within
6 three days of the person's sex offense conviction, and it shall be
7 made part of the registered sex offender's file maintained by the
8 Sex Offender Tracking Program. The Facts of Offense Sheet
9 shall thereafter be made available to law enforcement by the
10 Department of Justice, which shall post it with the offender's
11 record on the Department of Justice Internet Web site maintained
12 pursuant to Section 290.46, and shall be accessible only to law
13 enforcement.

14 (2) If the registered sex offender is sentenced to a period of
15 incarceration, at either the state prison or a county jail, the Facts
16 of Offense Sheet shall be sent by the Department of Corrections
17 and Rehabilitation or the county sheriff to the registering law
18 enforcement agency in the jurisdiction where the registered sex
19 offender will be paroled or will live on release, within three days
20 of the person's release. If the registered sex offender is
21 committed to the Department of Mental Health, the Facts of
22 Offense Sheet shall be sent by the Department of Mental Health
23 to the registering law enforcement agency in the jurisdiction
24 where the person will live on release, within three days of
25 release.

26 SEC. 12. Section 290.07 is added to the Penal Code, to read:

27 290.07. (a) All adult males who have been convicted of an
28 offense for which they are required to register as a sex offender
29 pursuant to Section 290 and who are incarcerated in state prison
30 or committed to the Department of Mental Health shall be
31 subject to sex offender risk assessment pursuant to the provisions
32 of this chapter. The assessment shall take place at least four
33 months, but no sooner than 10 months, prior to release from
34 incarceration or commitment.

35 (b) The prerelease risk assessment shall be performed by the
36 Department of Corrections and Rehabilitation. Persons
37 administering the assessment shall be trained through an
38 approved program established pursuant to subdivision (d) of
39 Section 290.04, and shall receive updated training no less

1 frequently than every two years as determined by the Department
2 of Corrections and Rehabilitation.

3 (c) Adult male registered sex offenders who, subsequent to
4 their conviction for a sex offense, are convicted of a separate
5 criminal offense resulting in incarceration or commitment, or
6 which would require a probation officer's report, but who have
7 not been the subject of a risk assessment, shall be assessed in
8 accordance with this chapter.

9 SEC. 13. Section 290.08 is added to the Penal Code, to read:

10 290.08. (a) Adult male registered sex offenders who are on
11 probation or parole as of the effective date of this section shall
12 be subject to a risk assessment using the STATIC-99. Adult male
13 sex offenders convicted in a jurisdiction other than California
14 who are required to register while living in California pursuant
15 to Section 290, who are being supervised in California under an
16 interstate compact or who are on federal or military supervision
17 in California, shall be also be assessed. Those offenders who
18 were assigned the highest risk level under the STATIC-99 in the
19 jurisdiction where they were convicted shall be given priority in
20 performing a new risk assessment.

21 (b) Probation departments and the parole authority shall
22 create specialized caseloads for all sex offenders, and shall
23 develop expertise in sex offender management. Sex offenders
24 assessed at high risk levels shall be monitored by agents
25 responsible for reduced case loads.

26 (c) The risk assessment tier level assigned to a registered sex
27 offender shall be used to determine the level of monitoring and
28 control on supervision.

29 SEC. 14. Section 290.09 is added to the Penal Code, to read:

30 290.09. (a) Notwithstanding any other law, any person
31 authorized and trained to perform STATIC-99 risk assessments
32 shall be granted access to all relevant records pertaining to a
33 registered sex offender, including but not limited to criminal
34 histories, sex offender registration records, police reports,
35 probation and pre-sentencing reports, judicial records and case
36 files, juvenile records, records maintained by Child Protective
37 Services, psychological evaluations and psychiatric hospital
38 reports, sexually violent predator treatment program reports,
39 and records that have been sealed by the courts or the
40 Department of Justice. Records and information obtained under

1 *this section shall not be subject to the California Public Records*
2 *Act, Chapter 3.5 (commencing with Section 6250) of Division 7*
3 *of Title 1 of the Government Code.*

4 *(b) All state and local agencies and departments that maintain*
5 *records that contain information about registered sex offenders,*
6 *including but not limited to, the courts, probation, parole, law*
7 *enforcement agencies, the Department of Justice, district*
8 *attorney's and public defender's offices, and Child Protective*
9 *Services, shall maintain those records during the lifetime of the*
10 *registered sex offender.*

11 *SEC. 15. Section 290.46 of the Penal Code is amended to*
12 *read:*

13 *290.46. (a) On or before the dates specified in this section,*
14 *the Department of Justice shall make available information*
15 *concerning persons who are required to register pursuant to*
16 *Section 290 to the public via an Internet Web site as specified in*
17 *this section. The department shall update the Internet Web site on*
18 *an ongoing basis. All information identifying the victim by name,*
19 *birth date, address, or relationship to the registrant shall be*
20 *excluded from the Internet Web site. The name or address of the*
21 *person's employer and the listed person's criminal history other*
22 *than the specific crimes for which the person is required to*
23 *register shall not be included on the Internet Web site. The Web*
24 *site shall display the risk assessment tier level for each posted*
25 *registrant who has been assessed by the STATIC-99. If no risk*
26 *assessment has been done, the Web site shall state, "Risk*
27 *Level-Not Yet Assessed." The Department of Corrections and*
28 *Rehabilitation and the Department of Mental Health shall*
29 *provide the risk assessment tier level for each registered sex*
30 *offender assessed to the Department of Justice Sex Offender*
31 *Tracking Program at least two months prior to release from*
32 *incarceration or commitment. Probation departments shall*
33 *provide the risk assessment tier level for each registered sex*
34 *offender under their jurisdiction to the Department of Justice Sex*
35 *Offender Tracking Program no later than three days following*
36 *release on probation. The Department of Mental Health shall*
37 *provide to the Department of Justice Sex Offender Tracking*
38 *Program the names of all persons committed to its custody*
39 *pursuant to Article 4 (commencing with Section 6600) of Chapter*
40 *2 of Part 2 of Division 6 of the Welfare and Institutions Code,*

1 *within 30 days of commitment, and shall provide the names of all*
2 *of those persons released from its custody within five working*
3 *days of release. The Department of Corrections and*
4 *Rehabilitation shall provide the actual release date of each*
5 *registered sex offender to the Department of Justice Sex Offender*
6 *Tracking Program within five days of release or as soon as*
7 *practicable thereafter. The Web site shall display the date of*
8 *conviction and the date of release from incarceration or*
9 *commitment for each posted registrant. The Web site shall also*
10 *post, in a separate section from those listing current registered*
11 *sex offenders, the names and reported state of destination, if any,*
12 *of former registrants who have been deported or moved out of*
13 *state. The Internet Web site shall be translated into languages*
14 *other than English as determined by the department.*

15 (b) (1) On or before July 1, 2005, with respect to a person
16 who has been convicted of the commission or the attempted
17 commission of any of the offenses listed in, or who is described
18 in, paragraph (2), the Department of Justice shall make available
19 to the public via the Internet Web site his or her name and known
20 aliases, a photograph, a physical description, including gender
21 and race, date of birth, criminal history, the address at which the
22 person resides, and any other information that the Department of
23 Justice deems relevant, but not the information excluded pursuant
24 to subdivision (a).

25 (2) This subdivision shall apply to the following offenses and
26 offenders:

27 (A) Section 207 committed with intent to violate Section 261,
28 286, 288, 288a, or 289.

29 (B) Section 209 committed with intent to violate Section 261,
30 286, 288, 288a, or 289.

31 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

32 (D) Section 264.1.

33 (E) Section 269.

34 (F) Subdivision (c) or (d) of Section 286.

35 (G) Subdivision (a), (b), or (c) of Section 288, provided that
36 the offense is a felony.

37 (H) Subdivision (c) or (d) of Section 288a.

38 (I) Section 288.5 or 288.7.

39 (J) Subdivision (a) or (j) of Section 289.

1 (K) Any person who has ever been adjudicated a sexually
2 violent predator as defined in Section 6600 of the Welfare and
3 Institutions Code.

4 (c) (1) On or before July 1, 2005, with respect to a person
5 who has been convicted of the commission or the attempted
6 commission of any of the offenses listed in paragraph (2), the
7 Department of Justice shall make available to the public via the
8 Internet Web site his or her name and known aliases, a
9 photograph, a physical description, including gender and race,
10 date of birth, criminal history, the community of residence and
11 ZIP Code in which the person resides or the county in which the
12 person is registered as a transient, and any other information that
13 the Department of Justice deems relevant, but not the information
14 excluded pursuant to subdivision (a). On or before July 1, 2006,
15 the Department of Justice shall determine whether any person
16 convicted of an offense listed in paragraph (2) also has one or
17 more prior or subsequent convictions of an offense listed in
18 paragraph (2) of subdivision (a) of Section 290, and, for those
19 persons, the Department of Justice shall make available to the
20 public via the Internet Web site the address at which the person
21 resides. However, the address at which the person resides shall
22 not be disclosed until a determination is made that the person is,
23 by virtue of his or her additional prior or subsequent conviction
24 of an offense listed in paragraph (2) of subdivision (a) of Section
25 290, subject to this subdivision.

26 (2) This subdivision shall apply to the following offenses:

27 (A) Section 220, except assault to commit mayhem.

28 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

29 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
30 (i), of Section 286.

31 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
32 (i), of Section 288a.

33 (E) Subdivision (b), (d), (e), or (i) of Section 289.

34 (d) (1) On or before July 1, 2005, with respect to a person
35 who has been convicted of the commission or the attempted
36 commission of any of the offenses listed in, or who is described
37 in, this subdivision, the Department of Justice shall make
38 available to the public via the Internet Web site his or her name
39 and known aliases, a photograph, a physical description,
40 including gender and race, date of birth, criminal history, the

1 community of residence and ZIP Code in which the person
2 resides or the county in which the person is registered as a
3 transient, and any other information that the Department of
4 Justice deems relevant, but not the information excluded pursuant
5 to subdivision (a) or the address at which the person resides.

6 (2) This subdivision shall apply to the following offenses and
7 offenders:

8 (A) Subdivision (a) of Section 243.4, provided that the offense
9 is a felony.

10 (B) Section 266, provided that the offense is a felony.

11 (C) Section 266c, provided that the offense is a felony.

12 (D) Section 266j.

13 (E) Section 267.

14 (F) Subdivision (c) of Section 288, provided that the offense is
15 a misdemeanor.

16 (G) Section 626.83 *or* 647.6.

17 (H) Any person required to register pursuant to Section 290
18 based upon an out-of-state conviction, unless that person is
19 excluded from the Internet Web site pursuant to subdivision (e).
20 However, if the Department of Justice has determined that the
21 out-of-state crime, if committed or attempted in this state, would
22 have been punishable in this state as a crime described in
23 subparagraph (A) of paragraph (2) of subdivision (a) of Section
24 290, the person shall be placed on the Internet Web site as
25 provided in subdivision (b) or (c), as applicable to the crime.

26 (e) (1) If a person has been convicted of the commission or
27 the attempted commission of any of the offenses listed in this
28 subdivision, and he or she has been convicted of no other offense
29 listed in subdivision (b), (c), or (d) other than those listed in this
30 subdivision, that person may file an application with the
31 Department of Justice, on a form approved by the department, for
32 exclusion from the Internet Web site. If the department
33 determines that the person meets the requirements of this
34 subdivision, the department shall grant the exclusion and no
35 information concerning the person shall be made available via
36 the Internet Web site described in this section. He or she bears
37 the burden of proving the facts that make him or her eligible for
38 exclusion from the Internet Web site. However, a person who has
39 filed for or been granted an exclusion from the Internet Web site
40 is not relieved of his or her duty to register as a sex offender

1 pursuant to Section 290 nor from any otherwise applicable
2 provision of law.

3 (2) This subdivision shall apply to the following offenses:

4 (A) A felony violation of subdivision (a) of Section 243.4.

5 (B) Section 647.6, ~~provided if~~ the offense is a misdemeanor,
6 *and the person has a risk assessment level of low or*
7 *moderate-low.*

8 (C) (i) An offense for which the offender successfully
9 completed probation, provided that the offender submits to the
10 department a certified copy of a probation report, presentencing
11 report, report prepared pursuant to Section 288.1, or other official
12 court document that clearly demonstrates both of the following:

13 (I) The offender was the victim's parent, stepparent, sibling, or
14 grandparent.

15 (II) The crime did not involve either oral copulation or
16 penetration of the vagina or rectum of either the victim or the
17 offender by the penis of the other or by any foreign object.

18 (ii) An offense for which the offender is on probation at the
19 time of his or her application, provided that the offender submits
20 to the department a certified copy of a probation report,
21 presentencing report, report prepared pursuant to Section 288.1,
22 or other official court document that clearly demonstrates both of
23 the following:

24 (I) The offender was the victim's parent, stepparent, sibling, or
25 grandparent.

26 (II) The crime did not involve either oral copulation or
27 penetration of the vagina or rectum of either the victim or the
28 offender by the penis of the other or by any foreign object.

29 (iii) If, subsequent to his or her application, the offender
30 commits a violation of probation resulting in his or her
31 incarceration in county jail or state prison, his or her exclusion,
32 or application for exclusion, from the Internet Web site shall be
33 terminated.

34 (iv) For the purposes of this subparagraph, "successfully
35 completed probation" means that during the period of probation
36 the offender neither received additional county jail or state prison
37 time for a violation of probation nor was convicted of another
38 offense resulting in a sentence to county jail or state prison.

39 (3) *The department shall periodically review the list of those*
40 *persons excluded pursuant to this subdivision. If it determines*

1 *that a person who was granted an exclusion under a former*
2 *version of this subdivision would not qualify for an exclusion*
3 *under the current version of this subdivision, the department*
4 *shall rescind the exclusion, make a reasonable effort to provide*
5 *notification to the person that the exclusion has been rescinded,*
6 *and, no sooner than 30 days after notification is attempted, make*
7 *information about the offender available to the public on the*
8 *Internet Web site as provided in this section.*

9 (f) The Department of Justice shall make a reasonable effort to
10 provide notification to persons who have been convicted of the
11 commission or attempted commission of an offense specified in
12 subdivision (b), (c), or (d), that on or before July 1, 2005, the
13 department is required to make information about specified sex
14 offenders available to the public via an Internet Web site as
15 specified in this section. The Department of Justice shall also
16 make a reasonable effort to provide notice that some offenders
17 are eligible to apply for exclusion from the Internet Web site.

18 (g) (1) A designated law enforcement entity, as defined in
19 subdivision (f) of Section 290.45, may make available
20 information concerning persons who are required to register
21 pursuant to Section 290 to the public via an Internet Web site as
22 specified in paragraph (2).

23 (2) The law enforcement entity may make available by way of
24 an Internet Web site the information described in subdivision (c)
25 if it determines that the public disclosure of the information
26 about a specific offender by way of the entity's Internet Web site
27 is necessary to ensure the public safety based upon information
28 available to the entity concerning that specific offender.

29 (3) The information that may be provided pursuant to this
30 subdivision may include the information specified in subdivision
31 (b) of Section 290.45. However, that offender's address may not
32 be disclosed unless he or she is a person whose address is on the
33 Department of Justice's Internet Web site pursuant to subdivision
34 (b) or (c).

35 (h) For purposes of this section, "offense" includes the
36 statutory predecessors of that offense, or any offense committed
37 in another jurisdiction that, if committed or attempted to be
38 committed in this state, would have been punishable in this state
39 as an offense listed in subparagraph (A) of paragraph (2) of
40 subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars (\$1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(l) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and

1 1596.871 of the Health and Safety Code, and Section 432.7 of
2 the Labor Code.

3 (4) (A) Any use of information disclosed pursuant to this
4 section for purposes other than those provided by paragraph (1)
5 or in violation of paragraph (2) shall make the user liable for the
6 actual damages, and any amount that may be determined by a
7 jury or a court sitting without a jury, not exceeding three times
8 the amount of actual damage, and not less than two hundred fifty
9 dollars (\$250), and attorney's fees, exemplary damages, or a civil
10 penalty not exceeding twenty-five thousand dollars (\$25,000).

11 (B) Whenever there is reasonable cause to believe that any
12 person or group of persons is engaged in a pattern or practice of
13 misuse of the information available via an Internet Web site
14 established pursuant to this section in violation of paragraph (2),
15 the Attorney General, any district attorney, or city attorney, or
16 any person aggrieved by the misuse is authorized to bring a civil
17 action in the appropriate court requesting preventive relief,
18 including an application for a permanent or temporary injunction,
19 restraining order, or other order against the person or group of
20 persons responsible for the pattern or practice of misuse. The
21 foregoing remedies shall be independent of any other remedies or
22 procedures that may be available to an aggrieved party under
23 other provisions of law, including Part 2 (commencing with
24 Section 43) of Division 1 of the Civil Code.

25 (m) The public notification provisions of this section are
26 applicable to every person described in this section, without
27 regard to when his or her crimes were committed or his or her
28 duty to register pursuant to Section 290 arose, and to every
29 offense described in this section, regardless of when it was
30 committed.

31 (n) On or before July 1, 2006, and every year thereafter, the
32 Department of Justice shall make a report to the Legislature
33 concerning the operation of this section.

34 (o) A designated law enforcement entity and its employees
35 shall be immune from liability for good faith conduct under this
36 section.

37 (p) *The Attorney General, in collaboration with local law*
38 *enforcement and others knowledgeable about sex offenders, shall*
39 *develop strategies to assist members of the public in*
40 *understanding and using publicly-available information about*

1 *registered sex offenders to further public safety. These strategies*
2 *may include but are not limited to a hotline for community*
3 *inquiries, neighborhood and business guidelines for how to*
4 *respond to information posted on this Web site, and any other*
5 *resource that promotes public education about these offenders.*

6 SEC. 16. Section 311.4 of the Penal Code is amended to
7 read:

8 311.4. (a) Every person who, with knowledge that a person is
9 a minor, or who, while in possession of any facts on the basis of
10 which he or she should reasonably know that the person is a
11 minor, hires, employs, or uses the minor to do or assist in doing
12 any of the acts described in Section 311.2, is, for a first offense,
13 guilty of a misdemeanor. If the person has previously been
14 convicted of any violation of this section, the court may, in
15 addition to the punishment authorized in Section 311.9, impose a
16 fine not exceeding fifty thousand dollars (\$50,000).

17 (b) Every person who, with knowledge that a person is a minor
18 under the age of 18 years, or who, while in possession of any
19 facts on the basis of which he or she should reasonably know that
20 the person is a minor under the age of 18 years, knowingly
21 promotes, employs, uses, persuades, induces, or coerces a minor
22 under the age of 18 years, or any parent or guardian of a minor
23 under the age of 18 years under his or her control who knowingly
24 permits the minor, to engage in or assist others to engage in
25 either posing or modeling alone or with others for purposes of
26 preparing any representation of information, data, or image,
27 including, but not limited to, any film, filmstrip, photograph,
28 negative, slide, photocopy, videotape, video laser disc, computer
29 hardware, computer software, computer floppy disc, data storage
30 media, CD-ROM, or computer-generated equipment or any other
31 computer-generated image that contains or incorporates in any
32 manner, any film, filmstrip, or a live performance involving,
33 sexual conduct by a minor under the age of 18 years alone or
34 with other persons or animals, for commercial purposes, is guilty
35 of a felony and shall be punished by imprisonment in the state
36 prison for three, six, or eight years.

37 (c) Every person who, with knowledge that a person is a minor
38 under the age of 18 years, or who, while in possession of any
39 facts on the basis of which he or she should reasonably know that
40 the person is a minor under the age of 18 years, knowingly

promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, is guilty of a felony. It is not necessary to prove commercial purposes in order to establish a violation of this subdivision. *A violation of this subdivision is separate and distinct from a violation of subdivision (b).*

(d) (1) As used in subdivisions (b) and (c), “sexual conduct” means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(2) As used in subdivisions (b) and (c), “matter” means any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, or any other computer-related equipment or computer-generated image that contains or incorporates in any manner, any film, filmstrip, photograph, negative, slide, photocopy, videotape, or video laser disc.

(e) This section does not apply to a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647.6. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense is not a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense.

SEC. 17. Section 311.11 of the Penal Code is amended to read:

311.11. (a) (1) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a public offense and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the fine and imprisonment.

(2) *If that matter depicts a minor who is prepubescent, the person is guilty of a misdemeanor or felony.*

(3) *If that matter depicts a minor who is prepubescent and the person intends to distribute or exchange the matter with another person, regardless of commercial intent, the person is guilty of a felony.*

~~(b) If a person~~ Every person who commits a violation of subdivision (a) and who has been previously convicted of a violation of this section, or of a violation of subdivision (b) of Section 311.2, or subdivision (b) of Section 311.4, ~~he or she~~ *an offense described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, or an attempt to commit any of those offenses,* is guilty of a felony and shall be punished by imprisonment for two, four, or six years.

1 (c) It is not necessary to prove that the matter is obscene in
2 order to establish a violation of this section.

3 (d) This section does not apply to drawings, figurines, statues,
4 or any film rated by the Motion Picture Association of America,
5 nor does it apply to live or recorded telephone messages when
6 transmitted, disseminated, or distributed as part of a commercial
7 transaction.

8 *SEC. 18. Section 311.12 is added to the Penal Code, to read:*

9 *311.12. Any monetary assets gained from the production,*
10 *publication, sale, distribution, exchange, or control of any matter*
11 *that depicts a minor under 18 years of age that is unlawful*
12 *pursuant to Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, or*
13 *311.11, is subject to forfeiture, upon conviction for a violation of*
14 *one of those sections. Upon petition by the prosecuting attorney,*
15 *at any time following sentencing for a violation of one of those*
16 *sections, the court shall conduct a hearing to determine the*
17 *amount of monetary assets that are subject to forfeiture. The*
18 *Civil Discovery Act of 1986 (Article 3 (commencing with Section*
19 *2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil*
20 *Procedure) applies to that hearing.*

21 *SEC. 19. Section 626.8 of the Penal Code is amended to*
22 *read:*

23 626.8. (a) Any person who comes into any school building or
24 upon any school ground, or street, sidewalk, or public way
25 adjacent thereto, without lawful business thereon, and whose
26 presence or acts interfere with the peaceful conduct of the
27 activities of the school or disrupt the school or its pupils or
28 school activities, ~~or any specified sex offender who comes into~~
29 ~~any school building or upon any school ground, or street,~~
30 ~~sidewalk, or public way adjacent thereto,~~ unless the person is a
31 parent or guardian of a child attending that school, or is a student
32 at the school or has prior written permission for the entry from
33 the chief administrative officer of that school, is guilty of a
34 misdemeanor if he or she does any of the following:

35 (1) Remains there after being asked to leave by the chief
36 administrative official of that school or his or her designated
37 representative, or by a person employed as a member of a
38 security or police department of a school district pursuant to
39 Section 39670 of the Education Code, or a city police officer, or

1 sheriff or deputy sheriff, or a Department of the California
2 Highway Patrol peace officer.

3 (2) Reenters or comes upon that place within seven days of
4 being asked to leave by a person specified in paragraph (1).

5 (3) Has otherwise established a continued pattern of
6 unauthorized entry.

7 This section shall not be utilized to impinge upon the lawful
8 exercise of constitutionally protected rights of freedom of speech
9 or assembly.

10 (b) Punishment for violation of this section shall be as follows:

11 (1) Upon a first conviction by a fine of not exceeding five
12 hundred dollars (\$500), by imprisonment in the county jail for a
13 period of not more than six months, or by both the fine and
14 imprisonment.

15 (2) If the defendant has been previously convicted once of a
16 violation of any offense defined in this chapter or Section 415.5,
17 by imprisonment in the county jail for a period of not less than 10
18 days or more than six months, or by both imprisonment and a
19 fine of not exceeding five hundred dollars (\$500), and shall not
20 be released on probation, parole, or any other basis until he or
21 she has served not less than 10 days.

22 (3) If the defendant has been previously convicted two or more
23 times of a violation of any offense defined in this chapter or
24 Section 415.5, by imprisonment in the county jail for a period of
25 not less than 90 days or more than six months, or by both
26 imprisonment and a fine of not exceeding five hundred dollars
27 (\$500), and shall not be released on probation, parole, or any
28 other basis until he or she has served not less than 90 days.

29 (c) As used in this section, the following definitions ~~govern~~
30 ~~the meaning of the following words and phrases~~ *apply*:

31 ~~(1) "Specified sex offender" means any person required to~~
32 ~~register pursuant to Section 290, who has been convicted of a~~
33 ~~violation of Section 220, 261, 266, 267, 272, 288, or 289, or of~~
34 ~~subdivision (c), (d), or (f) of Section 286, or of subdivision (c),~~
35 ~~(d), or (f) of Section 288a, or of an attempt to commit any of~~
36 ~~these offenses.~~

37 ~~(2)~~

38 ~~(1)~~ "Lawful business" means a reason for being present upon
39 school property which is not otherwise prohibited by statute, by

1 ordinance, or by any regulation adopted pursuant to statute or
2 ordinance.

3 ~~(3)~~

4 (2) “Continued pattern of unauthorized entry” means that on at
5 least two prior occasions in the same school year the defendant
6 came into any school building or upon any school ground, or
7 street, sidewalk, or public way adjacent thereto, without lawful
8 business thereon, and his or her presence or acts interfered with
9 the peaceful conduct of the activities of the school or disrupted
10 the school or its pupils or school activities, and the defendant was
11 asked to leave by a person specified in paragraph (1) of
12 subdivision (a).

13 ~~(4) In the case of a specified sex offender, “continued pattern~~
14 ~~of unauthorized entry” means that on at least two prior occasions~~
15 ~~in the same school year the defendant came into any school~~
16 ~~building or upon any school ground, or street, sidewalk, or public~~
17 ~~way adjacent thereto, and the defendant was asked to leave by a~~
18 ~~person specified in paragraph (1) of subdivision (a).~~

19 ~~(5)~~

20 (3) “School” means any preschool or school having any of
21 grades kindergarten through 12.

22 (d) When a person is directed to leave pursuant to paragraph
23 (1) of subdivision (a), the person directing him or her to leave
24 shall inform the person that if he or she reenters the place within
25 seven days he or she will be guilty of a crime.

26 *SEC. 20. Section 626.83 is added to the Penal Code, to read:*

27 *626.83. (a) Any person who has been convicted of a crime*
28 *listed in subparagraph (A) of paragraph (2) of subdivision (a) of*
29 *Section 290, who comes into any school building or upon any*
30 *school ground, without lawful business thereon or written*
31 *permission from the chief administrative official of that school,*
32 *or who loiters about any street, sidewalk, or public way adjacent*
33 *to any school building, school grounds, public playground, or*
34 *other youth recreational facility where minors are present*
35 *without lawful business thereon, is guilty of a misdemeanor.*

36 *(b) Any person who has been convicted of a crime listed in*
37 *subparagraph (A) of paragraph (2) of subdivision (a) of Section*
38 *290 where the victim was an elderly or dependent person, as*
39 *defined in Section 288, who comes onto any property where*
40 *elderly or dependent persons reside without lawful business*

1 *thereon or written permission from the director of the facility, is*
2 *guilty of a misdemeanor.*

3 *(c) Punishment for violation of this section shall be as follows:*

4 *(1) Upon a first conviction by a fine of not exceeding five*
5 *hundred dollars (\$500), by imprisonment in a county jail for a*
6 *period of not more than six months, or by both the fine and*
7 *imprisonment.*

8 *(2) If the defendant has been previously convicted once of a*
9 *violation of this section, by imprisonment in a county jail for a*
10 *period of not less than 10 days or more than six months, or by*
11 *both imprisonment and a fine of not exceeding five hundred*
12 *dollars (\$500), and shall not be released on probation, parole, or*
13 *any other basis until he or she has served not less than 10 days.*

14 *(3) If the defendant has been previously convicted two or more*
15 *times of a violation of this section, by imprisonment in a county*
16 *jail for a period of not less than 90 days or more than six months,*
17 *or by both imprisonment and a fine of not exceeding five hundred*
18 *dollars (\$500), and shall not be released on probation, parole, or*
19 *any other basis until he or she has served not less than 90 days.*

20 *(d) Local jurisdictions shall post signs at all relevant locations*
21 *informing the public of the provisions of this section.*

22 *SEC. 21. Section 800 of the Penal Code is amended to read:*

23 *800. (a) Except as provided in Section 799, prosecution for*
24 *an offense punishable by imprisonment in the state prison for*
25 *eight years or more shall be commenced within six years after*
26 *commission of the offense.*

27 *(b) Notwithstanding subdivision (a), prosecution for a*
28 *violation of subdivision (b) of Section 311.4 shall commence*
29 *within 10 years of the date of production of the pornographic*
30 *material.*

31 *SEC. 22. Section 1192.7 of the Penal Code is amended to*
32 *read:*

33 *1192.7. (a) (1) It is the intent of the Legislature that district*
34 *attorneys prosecute violent sex crimes under statutes that provide*
35 *sentencing under a “one strike,” “three strikes” or habitual sex*
36 *offender statute instead of engaging in plea bargaining over*
37 *those offenses.*

38 *(2) Plea bargaining in any case in which the indictment or*
39 *information charges any serious felony, any felony in which it is*
40 *alleged that a firearm was personally used by the defendant, or*

1 any offense of driving while under the influence of alcohol,
2 drugs, narcotics, or any other intoxicating substance, or any
3 combination thereof, is prohibited, unless there is insufficient
4 evidence to prove the people's case, or testimony of a material
5 witness cannot be obtained, or a reduction or dismissal would not
6 result in a substantial change in sentence.

7 *(3) If the indictment or information charges the defendant with*
8 *a violent sex crime, as listed in subdivision (c) of Section 667.61,*
9 *that could be prosecuted under Sections 269, 288.7,*
10 *subdivisions(b) through (i) of Section 667, Section 667.61, or*
11 *667.71, plea bargaining is prohibited unless there is insufficient*
12 *evidence to prove the people's case, or testimony of a material*
13 *witness cannot be obtained, or a reduction or dismissal would*
14 *not result in a substantial change in sentence. At the time of*
15 *presenting the agreement to the court, the district attorney shall*
16 *state on the record why a sentence under one of those sections*
17 *was not sought.*

18 (b) As used in this section "plea bargaining" means any
19 bargaining, negotiation, or discussion between a criminal
20 defendant, or his or her counsel, and a prosecuting attorney or
21 judge, whereby the defendant agrees to plead guilty or nolo
22 contendere, in exchange for any promises, commitments,
23 concessions, assurances, or consideration by the prosecuting
24 attorney or judge relating to any charge against the defendant or
25 to the sentencing of the defendant.

26 (c) As used in this section, "serious felony" means any of the
27 following:

28 (1) Murder or voluntary manslaughter; (2) mayhem; (3) rape;
29 (4) sodomy by force, violence, duress, menace, threat of great
30 bodily injury, or fear of immediate and unlawful bodily injury on
31 the victim or another person; (5) oral copulation by force,
32 violence, duress, menace, threat of great bodily injury, or fear of
33 immediate and unlawful bodily injury on the victim or another
34 person; (6) lewd or lascivious act on a child ~~under the age of 14~~
35 *years 14 years of age*; (7) any felony punishable by death or
36 imprisonment in the state prison for life; (8) any felony in which
37 the defendant personally inflicts great bodily injury on any
38 person, other than an accomplice, or any felony in which the
39 defendant personally uses a firearm; (9) attempted murder; (10)
40 assault with intent to commit rape or robbery; (11) assault with a

1 deadly weapon or instrument on a peace officer; (12) assault by a
2 life prisoner on a noninmate; (13) assault with a deadly weapon
3 by an inmate; (14) arson; (15) exploding a destructive device or
4 any explosive with intent to injure; (16) exploding a destructive
5 device or any explosive causing bodily injury, great bodily
6 injury, or mayhem; (17) exploding a destructive device or any
7 explosive with intent to murder; (18) any burglary of the first
8 degree; (19) robbery or bank robbery; (20) kidnapping; (21)
9 holding of a hostage by a person confined in a state prison; (22)
10 attempt to commit a felony punishable by death or imprisonment
11 in the state prison for life; (23) any felony in which the defendant
12 personally used a dangerous or deadly weapon; (24) selling,
13 furnishing, administering, giving, or offering to sell, furnish,
14 administer, or give to a minor any heroin, cocaine, phencyclidine
15 (PCP), or any methamphetamine-related drug, as described in
16 paragraph (2) of subdivision (d) of Section 11055 of the Health
17 and Safety Code, or any of the precursors of methamphetamines,
18 as described in subparagraph (A) of paragraph (1) of subdivision
19 (f) of Section 11055 or subdivision (a) of Section 11100 of the
20 Health and Safety Code; (25) any violation of subdivision (a) of
21 Section 289 where the act is accomplished against the victim's
22 will by force, violence, duress, menace, or fear of immediate and
23 unlawful bodily injury on the victim or another person; (26)
24 grand theft involving a firearm; (27) carjacking; (28) any felony
25 offense, which would also constitute a felony violation of Section
26 186.22; (29) assault with the intent to commit mayhem, rape,
27 sodomy, or oral copulation, in violation of Section 220; (30)
28 throwing acid or flammable substances, in violation of Section
29 244; (31) assault with a deadly weapon, firearm, machinegun,
30 assault weapon, or semiautomatic firearm or assault on a peace
31 officer or firefighter, in violation of Section 245; (32) assault
32 with a deadly weapon against a public transit employee, custodial
33 officer, or school employee, in violation of Sections 245.2, 245.3,
34 or 245.5; (33) discharge of a firearm at an inhabited dwelling,
35 vehicle, or aircraft, in violation of Section 246; (34) commission
36 of rape or sexual penetration in concert with another person, in
37 violation of Section 264.1; (35) continuous sexual abuse of a
38 child, in violation of Section 288.5; (36) shooting from a vehicle,
39 in violation of subdivision (c) or (d) of Section 12034; (37)
40 intimidation of victims or witnesses, in violation of Section

1 136.1; (38) criminal threats, in violation of Section 422; (39) any
2 attempt to commit a crime listed in this subdivision other than an
3 assault; (40) any violation of Section 12022.53; (41) a violation
4 of subdivision (b) or (c) of Section 11418; and (42) any
5 conspiracy to commit an offense described in this subdivision.

6 (d) As used in this section, “bank robbery” means to take or
7 attempt to take, by force or violence, or by intimidation from the
8 person or presence of another any property or money or any other
9 thing of value belonging to, or in the care, custody, control,
10 management, or possession of, any bank, credit union, or any
11 savings and loan association.

12 As used in this subdivision, the following terms have the
13 following meanings:

14 (1) “Bank” means any member of the Federal Reserve System,
15 and any bank, banking association, trust company, savings bank,
16 or other banking institution organized or operating under the laws
17 of the United States, and any bank the deposits of which are
18 insured by the Federal Deposit Insurance Corporation.

19 (2) “Savings and loan association” means any federal savings
20 and loan association and any “insured institution” as defined in
21 Section 401 of the National Housing Act, as amended, and any
22 federal credit union as defined in Section 2 of the Federal Credit
23 Union Act.

24 (3) “Credit union” means any federal credit union and any
25 state-chartered credit union the accounts of which are insured by
26 the Administrator of the National Credit Union administration.

27 (e) The provisions of this section shall not be amended by the
28 Legislature except by statute passed in each house by rollcall
29 vote entered in the journal, two-thirds of the membership
30 concurring, or by a statute that becomes effective only when
31 approved by the electors.

32 *SEC. 23. Section 1202.8 of the Penal Code is amended to*
33 *read:*

34 1202.8. (a) Persons placed on probation by a court shall be
35 under the supervision of the county probation officer who shall
36 determine both the level and type of supervision consistent with
37 the court-ordered conditions of probation. *Each county shall*
38 *designate certain probation officers to monitor registered sex*
39 *offenders, as specified in subdivision (b) of Section 290.08. Those*
40 *probationers shall be required to report more frequently to one*

1 *of those designated probation officers than any other probationer*
2 *is required to report, and shall be subject to intensive scrutiny by*
3 *that designated officer.*

4 (b) Within 30 days of a court making an order to provide
5 restitution to a victim or to the Restitution Fund, the probation
6 officer shall establish an account into which any restitution
7 payments that are not deposited into the Restitution Fund shall be
8 deposited.

9 *SEC. 24. Section 1203 of the Penal Code is amended to read:*

10 1203. (a) As used in this code, “probation” means the
11 suspension of the imposition or execution of a sentence and the
12 order of conditional and revocable release in the community
13 under the supervision of a probation officer. As used in this code,
14 “conditional sentence” means the suspension of the imposition or
15 execution of a sentence and the order of revocable release in the
16 community subject to conditions established by the court without
17 the supervision of a probation officer. It is the intent of the
18 Legislature that both conditional sentence and probation are
19 authorized whenever probation is authorized in any code as a
20 sentencing option for infractions or misdemeanors.

21 (b) (1) Except as provided in subdivision (j), if a person is
22 convicted of a felony and is eligible for probation, before
23 judgment is pronounced, the court shall immediately refer the
24 matter to a probation officer to investigate and report to the court,
25 at a specified time, upon the circumstances surrounding the crime
26 and the prior history and record of the person, which may be
27 considered either in aggravation or mitigation of the punishment.

28 (2) (A) The probation officer shall immediately investigate
29 and make a written report to the court of his or her findings and
30 recommendations, including his or her recommendations as to
31 the granting or denying of probation and the conditions of
32 probation, if granted.

33 (B) Pursuant to Section 828 of the Welfare and Institutions
34 Code, the probation officer shall include in his or her report any
35 information gathered by a law enforcement agency relating to the
36 taking of the defendant into custody as a minor, which shall be
37 considered for purposes of determining whether adjudications of
38 commissions of crimes as a juvenile warrant a finding that there
39 are circumstances in aggravation pursuant to Section 1170 or to
40 deny probation.

1 (C) *If the person is convicted of a felony specified in*
2 *subparagraph (A) of paragraph (2) of subdivision (a) of Section*
3 *290, the probation officer shall administer the STATIC-99, as set*
4 *forth in Section 290.06, in order to determine the person's risk of*
5 *reoffending.*

6 (D) The probation officer shall also include in the report his
7 or her recommendation of both of the following:

8 (i) The amount the defendant should be required to pay as a
9 restitution fine pursuant to subdivision (b) of Section 1202.4.

10 (ii) Whether the court shall require, as a condition of
11 probation, restitution to the victim or to the Restitution Fund and
12 the amount thereof.

13 ~~(D)~~

14 (E) The report shall be made available to the court and the
15 prosecuting and defense attorneys at least five days, or upon
16 request of the defendant or prosecuting attorney, nine days prior
17 to the time fixed by the court for the hearing and determination
18 of the report, and shall be filed with the clerk of the court as a
19 record in the case at the time of the hearing. The time within
20 which the report shall be made available and filed may be waived
21 by written stipulation of the prosecuting and defense attorneys
22 that is filed with the court or an oral stipulation in open court that
23 is made and entered upon the minutes of the court.

24 (3) At a time fixed by the court, the court shall hear and
25 determine the application, if one has been made, or, in any case,
26 the suitability of probation in the particular case. At the hearing,
27 the court shall consider any report of the probation officer,
28 *including the results of the STATIC-99 assessment*, and shall
29 make a statement that it has considered the report which shall be
30 filed with the clerk of the court as a record in the case. If the
31 court determines that there are circumstances in mitigation of the
32 punishment prescribed by law or that the ends of justice would be
33 served by granting probation to the person, it may place the
34 person on probation. If probation is denied, the clerk of the court
35 shall immediately send a copy of the report to the Department of
36 *Corrections and Rehabilitation* at the prison or other institution to
37 which the person is delivered.

38 (4) The preparation of the report or the consideration of the
39 report by the court may be waived only by a written stipulation
40 of the prosecuting and defense attorneys that is filed with the

1 court or an oral stipulation in open court that is made and entered
2 upon the minutes of the court, except that there shall be no
3 waiver unless the court consents thereto. However, if the
4 defendant is ultimately sentenced and committed to the state
5 prison, a probation report shall be completed pursuant to Section
6 1203c.

7 (c) If a defendant is not represented by an attorney, the court
8 shall order the probation officer who makes the probation report
9 to discuss its contents with the defendant.

10 (d) If a person is convicted of a misdemeanor, the court may
11 either refer the matter to the probation officer for an investigation
12 and a report or summarily pronounce a conditional sentence. *If*
13 *the crime requires the person to register as a sex offender*
14 *pursuant to Section 290, the probation officer shall administer*
15 *the STATIC-99, as set forth in Section 290.06, in order to*
16 *determine the person's risk of reoffending.* If the case is not
17 referred to the probation officer, in sentencing the person, the
18 court may consider any information concerning the person that
19 could have been included in a probation report. The court shall
20 inform the person of the information to be considered and permit
21 him or her to answer or controvert the information. For this
22 purpose, upon the request of the person, the court shall grant a
23 continuance before the judgment is pronounced.

24 (e) Except in unusual cases where the interests of justice
25 would best be served if the person is granted probation, probation
26 shall not be granted to any of the following persons:

27 (1) Unless the person had a lawful right to carry a deadly
28 weapon, other than a firearm, at the time of the perpetration of
29 the crime or his or her arrest, any person who has been convicted
30 of arson, robbery, carjacking, burglary, burglary with explosives,
31 rape with force or violence, torture, aggravated mayhem, murder,
32 attempt to commit murder, trainwrecking, kidnapping, escape
33 from the state prison, or a conspiracy to commit one or more of
34 those crimes and who was armed with the weapon at either of
35 those times.

36 (2) Any person who used, or attempted to use, a deadly
37 weapon upon a human being in connection with the perpetration
38 of the crime of which he or she has been convicted.

1 (3) Any person who willfully inflicted great bodily injury or
2 torture in the perpetration of the crime of which he or she has
3 been convicted.

4 (4) Any person who has been previously convicted twice in
5 this state of a felony or in any other place of a public offense
6 which, if committed in this state, would have been punishable as
7 a felony.

8 (5) Unless the person has never been previously convicted
9 once in this state of a felony or in any other place of a public
10 offense which, if committed in this state, would have been
11 punishable as a felony, any person who has been convicted of
12 burglary with explosives, rape with force or violence, torture,
13 aggravated mayhem, murder, attempt to commit murder,
14 trainwrecking, extortion, kidnapping, escape from the state
15 prison, a violation of Section 286, 288, 288a, or 288.5, or a
16 conspiracy to commit one or more of those crimes.

17 (6) Any person who has been previously convicted once in this
18 state of a felony or in any other place of a public offense which,
19 if committed in this state, would have been punishable as a
20 felony, if he or she committed any of the following acts:

21 (A) Unless the person had a lawful right to carry a deadly
22 weapon at the time of the perpetration of the previous crime or
23 his or her arrest for the previous crime, he or she was armed with
24 a weapon at either of those times.

25 (B) The person used, or attempted to use, a deadly weapon
26 upon a human being in connection with the perpetration of the
27 previous crime.

28 (C) The person willfully inflicted great bodily injury or torture
29 in the perpetration of the previous crime.

30 (7) Any public official or peace officer of this state or any city,
31 county, or other political subdivision who, in the discharge of the
32 duties of his or her public office or employment, accepted or
33 gave or offered to accept or give any bribe, embezzled public
34 money, or was guilty of extortion.

35 (8) Any person who knowingly furnishes or gives away
36 phencyclidine.

37 (9) Any person who intentionally inflicted great bodily injury
38 in the commission of arson under subdivision (a) of Section 451
39 or who intentionally set fire to, burned, or caused the burning of,

1 an inhabited structure or inhabited property in violation of
2 subdivision (b) of Section 451.

3 (10) Any person who, in the commission of a felony, inflicts
4 great bodily injury or causes the death of a human being by the
5 discharge of a firearm from or at an occupied motor vehicle
6 proceeding on a public street or highway.

7 (11) Any person who possesses a short-barreled rifle or a
8 short-barreled shotgun under Section 12020, a machine gun
9 under Section 12220, or a silencer under Section 12520.

10 (12) Any person who is convicted of violating Section 8101 of
11 the Welfare and Institutions Code.

12 (13) Any person who is described in paragraph (2) or (3) of
13 subdivision (g) of Section 12072.

14 (f) When probation is granted in a case which comes within
15 subdivision (e), the court shall specify on the record and shall
16 enter on the minutes the circumstances indicating that the
17 interests of justice would best be served by that disposition.

18 (g) If a person is not eligible for probation, the judge shall
19 refer the matter to the probation officer for an investigation of the
20 facts relevant to determination of the amount of a restitution fine
21 pursuant to subdivision (b) of Section 1202.4 in all cases where
22 the determination is applicable. The judge, in his or her
23 discretion, may direct the probation officer to investigate all facts
24 relevant to the sentencing of the person. Upon that referral, the
25 probation officer shall immediately investigate the circumstances
26 surrounding the crime and the prior record and history of the
27 person and make a written report to the court of his or her
28 findings. The findings shall include a recommendation of the
29 amount of the restitution fine as provided in subdivision (b) of
30 Section 1202.4.

31 (h) If a defendant is convicted of a felony and a probation
32 report is prepared pursuant to subdivision (b) or (g), the
33 probation officer may obtain and include in the report a statement
34 of the comments of the victim concerning the offense. The court
35 may direct the probation officer not to obtain a statement if the
36 victim has in fact testified at any of the court proceedings
37 concerning the offense.

38 (i) No probationer shall be released to enter another state
39 unless his or her case has been referred to the Administrator of
40 the Interstate Probation and Parole Compacts, pursuant to the

1 Uniform Act for Out-of-State Probationer or Parolee Supervision
2 (Article 3 (commencing with Section 11175) of Chapter 2 of
3 Title 1 of Part 4) and the probationer has reimbursed the county
4 that has jurisdiction over his or her probation case the reasonable
5 costs of processing his or her request for interstate compact
6 supervision. The amount and method of reimbursement shall be
7 in accordance with Section 1203.1b.

8 (j) In any court where a county financial evaluation officer is
9 available, in addition to referring the matter to the probation
10 officer, the court may order the defendant to appear before the
11 county financial evaluation officer for a financial evaluation of
12 the defendant's ability to pay restitution, in which case the
13 county financial evaluation officer shall report his or her findings
14 regarding restitution and other court-related costs to the
15 probation officer on the question of the defendant's ability to pay
16 those costs.

17 Any order made pursuant to this subdivision may be enforced
18 as a violation of the terms and conditions of probation upon
19 willful failure to pay and at the discretion of the court, may be
20 enforced in the same manner as a judgment in a civil action, if
21 any balance remains unpaid at the end of the defendant's
22 probationary period.

23 (k) Probation shall not be granted to, nor shall the execution
24 of, or imposition of sentence be suspended for, any person who is
25 convicted of a violent felony, as defined in subdivision (c) of
26 Section 667.5, or a serious felony, as defined in subdivision (c)
27 of Section 1192.7, and who was on probation for a felony offense
28 at the time of the commission of the new felony offense.

29 *(l) Each probation department shall develop control and*
30 *containment programming, in conjunction with the Department*
31 *of Corrections and Rehabilitation, for persons who are*
32 *designated at a moderate-high or high level of risk based on the*
33 *STATIC-99, and shall require participation in appropriate*
34 *programming of those persons as a condition of probation.*

35 SEC. 25. Section 1203c of the Penal Code is amended to
36 read:

37 1203c. (a) (1) Notwithstanding any other provisions of law,
38 whenever a person is committed to an institution under the
39 jurisdiction of the Department of Corrections *and Rehabilitation*,
40 whether probation has been applied for or not, or granted and

1 revoked, it shall be the duty of the probation officer of the county
2 from which the person is committed to send to the Department of
3 Corrections *and Rehabilitation* a report—~~upon~~ of the
4 circumstances surrounding the offense and the prior record and
5 history of the defendant, as may be required by the ~~Administrator~~
6 ~~of the Youth and Adult Corrections Agency~~ *Secretary of the*
7 *Department of Corrections and Rehabilitation*. ~~These~~

8 (2) *If the person is being committed to the jurisdiction of the*
9 *department for a conviction of an offense listed in subparagraph*
10 *(A) of paragraph (2) of subdivision (a) of Section 290, the*
11 *probation officer shall perform a risk assessment of the person*
12 *using the STATIC-99 assessment tool, as set forth in Section*
13 *290.06.*

14 (b) *These* reports shall accompany the commitment papers.
15 The reports shall be prepared in the form prescribed by the
16 administrator following consultation with the ~~Board of~~
17 ~~Corrections~~ *Corrections Standards Authority*, except that ~~in a~~
18 ~~case in which~~ *if the* defendant is ineligible for probation, a report
19 ~~upon~~ of the circumstances surrounding the offense and the prior
20 record and history of *the* defendant, prepared by the probation
21 officer on request of the court and filed with the court before
22 sentence, shall be deemed to meet ~~any such~~ *the* requirements of
23 ~~form~~ *paragraph (1) of subdivision (a).* ~~In~~

24 (c) *In* order to allow the probation officer *an* opportunity to
25 interview, for the purpose of preparation of these reports, the
26 ~~prisoner~~ *defendant* shall be held in the county jail for 48 hours,
27 excluding Saturdays, Sundays and holidays, subsequent to
28 imposition of sentence and prior to delivery to the custody of the
29 ~~Director~~ *Secretary of the Department of Corrections and*
30 *Rehabilitation*, unless the probation officer ~~shall have~~ *has*
31 indicated *the* need for a ~~lesser~~ *different* period of time.

32 SEC. 26. *Section 3000 of the Penal Code is amended to read:*

33 3000. (a) (1) The Legislature finds and declares that the
34 period immediately following incarceration is critical to
35 successful reintegration of the offender into society and to
36 positive citizenship. It is in the interest of public safety for the
37 state to provide for the supervision of and surveillance of
38 parolees, including the judicious use of revocation actions, and to
39 provide educational, vocational, family and personal counseling
40 necessary to assist parolees in the transition between

1 imprisonment and discharge. A sentence pursuant to Section
2 1168 or 1170 shall include a period of parole, unless waived, as
3 provided in this section.

4 (2) The Legislature finds and declares that it is not the intent
5 of this section to diminish resources allocated to the Department
6 of Corrections *and Rehabilitation* for parole functions for which
7 the department is responsible. It is also not the intent of this
8 section to diminish the resources allocated to the Board of ~~Prison~~
9 ~~Terms Parole Hearings~~ to execute its duties with respect to
10 parole functions for which the board is responsible.

11 (3) The Legislature finds and declares that diligent effort must
12 be made to ensure that parolees are held accountable for their
13 criminal behavior, including, but not limited to, the satisfaction
14 of restitution fines and orders.

15 ~~(4) Any finding made pursuant to Article 4 (commencing~~
16 ~~with Section 6600) of Chapter 2 of Part 2 of Division 6 of the~~
17 ~~Welfare and Institutions Code, that a person is a sexually violent~~
18 ~~predator shall not toll, discharge, or otherwise affect that person's~~
19 ~~period of parole. For any person being evaluated as a sexually~~
20 ~~violent predator pursuant to Article 4 (commencing with Section~~
21 ~~6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and~~
22 ~~Institutions Code, parole shall toll from evaluation through the~~
23 ~~period of commitment, if any. The period during which parole is~~
24 ~~tolled shall include the filing of a petition for commitment,~~
25 ~~hearing on probable cause, trial proceedings and actual~~
26 ~~commitment. Parole shall be tolled through any subsequent~~
27 ~~evaluation and commitment proceedings and actual commitment.~~
28 ~~Time spent on conditional release under court monitoring shall~~
29 ~~be included in the period of parole.~~

30 (b) Notwithstanding any provision to the contrary in Article 3
31 (commencing with Section 3040) of this chapter, the following
32 shall apply:

33 (1) At the expiration of a term of imprisonment of one year
34 and one day, or a term of imprisonment imposed pursuant to
35 Section 1170 or at the expiration of a term reduced pursuant to
36 Section 2931 or 2933, if applicable, the inmate shall be released
37 on parole for a period not exceeding three years, ~~except that~~
38 ~~unless the parole authority, for good cause, waives parole and~~
39 ~~discharges the inmate from the custody of the department.~~
40 *However, any inmate sentenced for an offense specified in*

1 paragraph ~~(3), (4), (5), (6), (11), (16), or (18)~~ of subdivision (c)
2 of Section 667.5 shall be released on parole for a period not
3 exceeding five years, ~~unless in either case the parole authority for~~
4 ~~good cause waives parole and discharges the inmate from the~~
5 ~~custody of the department and an inmate sentenced for an~~
6 ~~offense specified in paragraph (3), (4), (5), (6), (15), (16), or (18)~~
7 ~~of subdivision (c) of Section 667.5 shall be released on parole for~~
8 ~~a period not exceeding 10 years.~~

9 (2) In the case of any inmate sentenced under Section 1168,
10 the period of parole shall not exceed five years in the case of an
11 inmate imprisoned for any offense other than first or second
12 degree murder for which the inmate has received a life sentence,
13 and shall not exceed three years in the case of any other inmate,
14 unless in either case the parole authority for good cause waives
15 parole and discharges the inmate from custody of the department.
16 This subdivision shall also be applicable to inmates who
17 committed crimes prior to July 1, 1977, to the extent specified in
18 Section 1170.2.

19 ~~(3) Notwithstanding paragraphs (1) and (2), in the case of any~~
20 ~~offense for which the inmate has received a life sentence~~
21 ~~pursuant to Section 667.61 or 667.71, the period of parole shall~~
22 ~~be five years. Upon the request of the Department of Corrections,~~
23 ~~and on the grounds that the paroled inmate may pose a~~
24 ~~substantial danger to public safety, the Board of Prison Terms~~
25 ~~shall conduct a hearing to determine if the parolee shall be~~
26 ~~subject to a single additional five-year period of parole. The~~
27 ~~board shall conduct the hearing pursuant to the procedures and~~
28 ~~standards governing parole revocation. The request for parole~~
29 ~~extension shall be made no less than 180 days prior to the~~
30 ~~expiration of the initial five-year period of parole.~~

31 ~~(4)~~

32 (3) The parole authority shall consider the request of any
33 inmate regarding the length of his or her parole and the
34 conditions thereof.

35 ~~(5)~~

36 (4) Upon successful completion of parole, or at the end of the
37 maximum statutory period of parole specified for the inmate
38 under paragraph (1); ~~or (2); or (3), as the case may be,~~ whichever
39 is earlier, the inmate shall be discharged from custody. The date
40 of the maximum statutory period of parole under this subdivision

1 and paragraphs (1), *and* (2), ~~and (3)~~ shall be computed from the
2 date of initial parole ~~or from the date of extension of parole~~
3 ~~pursuant to paragraph (3)~~ and shall be a period chronologically
4 determined. Time during which parole is suspended because the
5 prisoner has absconded or has been returned to custody as a
6 parole violator shall not be credited toward any period of parole
7 unless the prisoner is found not guilty of the parole violation.
8 However, ~~in no case~~, except as provided in Section 3064, ~~may a~~
9 ~~prisoner an inmate~~ subject to three years on parole *may not* be
10 retained under parole supervision or in custody for a period
11 longer than four years from the date of his or her initial parole,
12 and, except as provided in Section 3064, ~~in no case may a~~
13 ~~prisoner an inmate~~ subject to five years on parole *may not* be
14 retained under parole supervision or in custody for a period
15 longer than seven years from the date of his or her initial parole
16 ~~or from the date of extension of parole pursuant to paragraph (3).~~
17 *Except as provided in Section 3064, an inmate subject to 10*
18 *years on parole may not be retained under parole supervision or*
19 *in custody for a period longer than 15 years from the date of his*
20 *or her initial parole.*

21 (6)

22 (5) The Department of Corrections *and Rehabilitation* shall
23 meet with each inmate at least 30 days prior to his or her good
24 time release date and shall provide, under guidelines specified by
25 the parole authority, the conditions of parole and the length of
26 parole up to the maximum period of time provided by law. The
27 inmate has the right to reconsideration of the length *and*
28 *conditions* of parole ~~and conditions thereof~~ by the parole
29 authority. The ~~Department of Corrections or the Board of Prison~~
30 ~~Terms~~ *department or the board* may impose as a condition of
31 parole that ~~a prisoner an inmate~~ make payments on the ~~prisoner's~~
32 *inmate's* outstanding restitution fines or orders imposed pursuant
33 to subdivision (a) or (c) of Section 13967 of the Government
34 Code, as operative prior to September 28, 1994, or subdivision
35 (b) or (f) of Section 1202.4.

36 (7)

37 (6) For purposes of this chapter, the Board of ~~Prison Terms~~
38 *Parole Hearings* shall be considered the parole authority.

39 (8)

(7) The sole authority to issue warrants for the return to actual custody of any ~~state prisoner~~ *inmate* released on parole rests with the ~~Board of Prison Terms~~ *board*, except for any escaped ~~state prisoner inmate~~ or any ~~state prisoner inmate~~ released prior to his or her scheduled release date who ~~should be~~ *is* returned to custody, ~~and in which case~~ Section 3060 shall apply.

~~(9)~~
(8) It is the intent of the Legislature that efforts be made with respect to persons who are subject to ~~subparagraph (C) of paragraph (1) of subdivision (a) of Section 290~~ who are on parole to engage them in treatment.

SEC. 27. Section 3005 of the Penal Code is amended to read:

3005. (a) The Department of Corrections, ~~to the maximum extent practicable and feasible, and subject to legislative appropriation of necessary funds, and Rehabilitation~~ shall ensure, ~~by July 1, 2001,~~ that all parolees under active supervision and deemed to pose a high risk to the public of committing violent sex crimes, *as determined by the STATIC-99 assessment tool*, shall be placed on an intensive and specialized parole supervision caseload, *and shall be required to report frequently to designated parole officers.*

(b) ~~The Department of Corrections~~ *department* shall develop and, at the discretion of the ~~director~~ *secretary*, and subject to an appropriation of the necessary funds, may implement a plan for the implementation of relapse prevention treatment programs, and the provision of other services deemed necessary by the department, in conjunction with intensive and specialized parole supervision, to reduce the recidivism of ~~high-risk~~ sex offenders.

(c) *The department shall develop control and containment programming for sex offenders who have been assessed pursuant to Section 5040 and shall require participation in appropriate programming as a condition of parole.*

SEC. 28. Chapter 1.5 (commencing with Section 5040) is added to Title 7 of Part 3 of the Penal Code, to read:

CHAPTER 1.5. RISK ASSESSMENT OF SEX OFFENDERS

5040. (a) *The Department of Corrections and Rehabilitation shall use the STATIC-99 assessment tool to perform a risk assessment on all male inmates who are convicted of a sex*

1 offense listed in subparagraph (A) of paragraph (2) of
2 subdivision (a) of Section 290, upon commitment to the
3 department. For those inmates already in the custody of the
4 department, the assessment shall be performed prior to being
5 released on parole. The assessment shall be performed as
6 prescribed in Chapter 5.5 (commencing with Section 290) of
7 Title 9 of Part 2.

8 (b) Inmates who were assessed using the STATIC-99 prior to
9 being committed to the department shall not be required to be
10 reassessed.

11 (c) Inmates who have a risk assessment of moderate-high or
12 high risk for committing a sex offense, according to the
13 STATIC-99, shall participate in sex offender control and
14 containment programming while incarcerated and while on
15 parole, as developed and specified by the department. The
16 programming shall be based on current, evidence-based
17 correctional standards that is proven to reduce the risk of
18 reoffending.

19 (d) Notwithstanding any other provision of law, inmates who
20 fail to participate in the programming prescribed shall not be
21 eligible to earn any credits pursuant to Article 2.5 (commencing
22 with Section 2930) of Chapter 7 of Title 1.

23 (e) Notwithstanding subdivision (d), an inmate serving a life
24 term may be excluded from sex offender programming until he or
25 she receives a parole date and is within five years of that date,
26 unless the department determines that the programming for that
27 inmate is necessary for the public safety.

28 (f) Notwithstanding subdivision (d), inmates who are
29 condemned to death or sentenced to life without the possibility of
30 parole are ineligible to participate in sex offender programming.

31 SEC. 29. Section 13015 is added to the Penal Code, to read:

32 13015. It is the intent of the Legislature to create
33 school-based programs to promote child safety and prevent child
34 abductions.

35 SEC. 30. Section 13105 is added to the Penal Code, to read:

36 13105. A state or local law enforcement agency shall not
37 destroy any records relating to a person who is required to
38 register as a sex offender pursuant to Section 290, for as long as
39 the person is living.

1 *SEC. 31. Section 13887 of the Penal Code is amended to*
2 *read:*

3 13887. ~~Any county may~~ Every county shall establish and
4 implement a sexual assault felony enforcement (SAFE) team
5 program pursuant to the provisions of this chapter.

6 *SEC. 32. Section 13887.1 of the Penal Code is amended to*
7 *read:*

8 13887.1. (a) The mission of this program shall be to reduce
9 violent sexual assault offenses in the county through proactive
10 surveillance and arrest of habitual sexual offenders, as defined in
11 Section 667.71, and strict enforcement of registration
12 requirements for sex offenders pursuant to Section 290.

13 (b) The proactive surveillance and arrest authorized by this
14 chapter shall be conducted within the limits of existing statutory
15 and constitutional law.

16 (c) *The mission of this program shall also be to provide*
17 *community education regarding the purposes of Sections 290 to*
18 *290.46, inclusive. The goal of community education is to do all of*
19 *the following:*

20 (1) *Provide information to the public about ways to protect*
21 *themselves and families from sexual assault.*

22 (2) *Emphasize of the importance of using the knowledge of the*
23 *presence of registered sex offenders in the community to enhance*
24 *public safety.*

25 3) *To explain that harassment or vigilantism against*
26 *registrants may cause them to disappear and attempt to live*
27 *without supervision, or to register as transients, which would*
28 *defeat the purpose of sex offender registration.*

29 *SEC. 33. Section 6600 of the Welfare and Institutions Code is*
30 *amended to read:*

31 6600. As used in this article, the following terms have the
32 following meanings:

33 (a) (1) “Sexually violent predator” means a person who has
34 been convicted of a sexually violent offense against two or more
35 victims and who has a diagnosed mental disorder that makes the
36 person a danger to the health and safety of others in that it is
37 likely that he or she will engage in sexually violent criminal
38 behavior.

39 (2) For purposes of this subdivision any of the following shall
40 be considered a conviction for a sexually violent offense:

1 (A) A prior or current conviction that resulted in a determinate
2 prison sentence for an offense described in subdivision (b).

3 (B) A conviction for an offense described in subdivision (b)
4 that was committed prior to July 1, 1977, and that resulted in an
5 indeterminate prison sentence.

6 (C) A prior conviction in another jurisdiction for an offense
7 that includes all of the elements of an offense described in
8 subdivision (b).

9 (D) A conviction for an offense under a predecessor statute
10 that includes all of the elements of an offense described in
11 subdivision (b).

12 (E) A prior conviction for which the inmate received a grant of
13 probation for an offense described in subdivision (b).

14 (F) A prior finding of not guilty by reason of insanity for an
15 offense described in subdivision (b).

16 (G) A conviction resulting in a finding that the person was a
17 mentally disordered sex offender.

18 (H) *A prior conviction for an offense described in subdivision*
19 *(b) for which the person was committed to the Department of*
20 *Corrections and Rehabilitation, Division of Juvenile Facilities,*
21 *pursuant to Section 1731.5.*

22 (I) *A prior conviction for an offense described in subdivision*
23 *(b) that resulted in an indeterminate prison sentence.*

24 (3) Conviction of one or more of the crimes enumerated in this
25 section shall constitute evidence that may support a court or jury
26 determination that a person is a sexually violent predator, but
27 shall not be the sole basis for the determination. The existence of
28 any prior convictions may be shown with documentary evidence.
29 The details underlying the commission of an offense that led to a
30 prior conviction, including a predatory relationship with the
31 victim, may be shown by documentary evidence, including, but
32 not limited to, preliminary hearing transcripts, trial transcripts,
33 probation and sentencing reports, and evaluations by the State
34 Department of Mental Health. Jurors shall be admonished that
35 they may not find a person a sexually violent predator based on
36 prior offenses absent relevant evidence of a currently diagnosed
37 mental disorder that makes the person a danger to the health and
38 safety of others in that it is likely that he or she will engage in
39 sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) “Sexually violent offense” means the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as provided in subdivision (a): a felony violation of paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of Section 289 of the Penal Code, or sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code.

(c) “Diagnosed mental disorder” includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) “Danger to the health and safety of others” does not require proof of a recent overt act while the offender is in custody.

(e) “Predatory” means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) “Recent overt act” means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

(g) Notwithstanding any other provision of law and for purposes of this section, no more than one prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following applies:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). Notwithstanding Section 6600.1, only an

1 offense described in subdivision (b) shall constitute a sexually
2 violent offense for purposes of this subdivision.

3 (3) The juvenile was adjudged a ward of the juvenile court
4 within the meaning of Section 602 because of the person's
5 commission of the offense giving rise to the juvenile court
6 adjudication.

7 (4) The juvenile was committed to the Department of ~~the~~
8 ~~Youth Authority~~ *Corrections and Rehabilitation, Division of*
9 *Juvenile Facilities* for the sexually violent offense.

10 (h) A minor adjudged a ward of the court for commission of
11 an offense that is defined as a sexually violent offense shall be
12 entitled to specific treatment as a sexual offender. The failure of
13 a minor to receive that treatment shall not constitute a defense or
14 bar to a determination that any person is a sexually violent
15 predator within the meaning of this article.

16 *SEC. 34. Section 6601 of the Welfare and Institutions Code is*
17 *amended to read:*

18 6601. (a) (1) Whenever ~~the Director of Corrections~~
19 *Secretary of the Department of Corrections and Rehabilitation*
20 determines that an individual who is in custody under the
21 jurisdiction of ~~the Department of Corrections~~ *that department*,
22 and who is either serving a determinate prison sentence or whose
23 parole has been revoked, may be a sexually violent predator, the
24 ~~director~~ *secretary* shall, at least six months prior to that
25 individual's scheduled date for release from prison, refer the
26 person for evaluation in accordance with this section. However,
27 if the inmate was received by the department with less than nine
28 months of his or her sentence to serve, or if the inmate's release
29 date is modified by judicial or administrative action, the director
30 may refer the person for evaluation in accordance with this
31 section at a date that is less than six months prior to the inmate's
32 scheduled release date.

33 (2) A petition may be filed under this section if the individual
34 was in custody pursuant to his or her determinate prison term,
35 parole revocation term, or a hold placed pursuant to Section
36 6601.3, at the time the petition is filed. A petition shall not be
37 dismissed on the basis of a later judicial or administrative
38 determination that the individual's custody was unlawful, if the
39 unlawful custody was the result of a good faith mistake of fact or

1 law. This paragraph shall apply to any petition filed on or after
2 January 1, 1996.

3 (b) The person shall be screened by the Department of
4 Corrections *and Rehabilitation* and the Board of ~~Prison Terms~~
5 *Parole Hearings* based on whether the person has committed a
6 sexually violent predatory offense and on a review of the
7 person's social, criminal, and institutional history. This screening
8 shall be conducted in accordance with a structured screening
9 instrument developed and updated by the State Department of
10 Mental Health in consultation with the Department of
11 Corrections *and Rehabilitation*. If as a result of this screening it
12 is determined that the person is likely to be a sexually violent
13 predator, the Department of Corrections *and Rehabilitation* shall
14 refer the person to the State Department of Mental Health for a
15 full evaluation of whether the person meets the criteria in Section
16 6600.

17 (c) The State Department of Mental Health shall evaluate the
18 person in accordance with a standardized assessment protocol,
19 developed and updated by the State Department of Mental
20 Health, to determine whether the person is a sexually violent
21 predator as defined in this article. The standardized assessment
22 protocol shall require assessment of diagnosable mental
23 disorders, as well as various factors known to be associated with
24 the risk of reoffense among sex offenders. Risk factors to be
25 considered shall include criminal and psychosexual history, type,
26 degree, and duration of sexual deviance, and severity of mental
27 disorder.

28 (d) Pursuant to subdivision (c), the person shall be evaluated
29 by two practicing psychiatrists or psychologists, or one practicing
30 psychiatrist and one practicing psychologist, designated by the
31 Director of Mental Health. If both evaluators concur that the
32 person has a diagnosed mental disorder so that he or she is likely
33 to engage in acts of sexual violence without appropriate
34 treatment and custody, the Director of Mental Health shall
35 forward a request for a petition for commitment under Section
36 6602 to the county designated in subdivision (i). Copies of the
37 evaluation reports and any other supporting documents shall be
38 made available to the attorney designated by the county pursuant
39 to subdivision (i) who may file a petition for commitment.

1 (e) If one of the professionals performing the evaluation
2 pursuant to subdivision (d) does not concur that the person meets
3 the criteria specified in subdivision (d), but the other professional
4 concludes that the person meets those criteria, the Director of
5 Mental Health shall arrange for further examination of the person
6 by two independent professionals selected in accordance with
7 subdivision (g).

8 (f) If an examination by independent professionals pursuant to
9 subdivision (e) is conducted, a petition to request commitment
10 under this article shall only be filed if both independent
11 professionals who evaluate the person pursuant to subdivision (e)
12 concur that the person meets the criteria for commitment
13 specified in subdivision (d). The professionals selected to
14 evaluate the person pursuant to subdivision (g) shall inform the
15 person that the purpose of their examination is not treatment but
16 to determine if the person meets certain criteria to be
17 involuntarily committed pursuant to this article. It is not required
18 that the person appreciate or understand that information.

19 (g) Any independent professional who is designated by the
20 ~~Director of Corrections~~ *Secretary of the Department of*
21 *Corrections and Rehabilitation* or the Director of Mental Health
22 for purposes of this section shall not be a state government
23 employee, shall have at least five years of experience in the
24 diagnosis and treatment of mental disorders, and shall include
25 psychiatrists and licensed psychologists who have a doctoral
26 degree in psychology. The requirements set forth in this section
27 also shall apply to any professionals appointed by the court to
28 evaluate the person for purposes of any other proceedings under
29 this article.

30 (h) If the State Department of Mental Health determines that
31 the person is a sexually violent predator as defined in this article,
32 the Director of Mental Health shall forward a request for a
33 petition to be filed for commitment under this article to the
34 county designated in subdivision (i). Copies of the evaluation
35 reports and any other supporting documents shall be made
36 available to the attorney designated by the county pursuant to
37 subdivision (i) who may file a petition for commitment in the
38 superior court.

39 (i) If the county's designated counsel concurs with the
40 recommendation, a petition for commitment shall be filed in the

1 superior court of the county in which the person was convicted of
2 the offense for which he or she was committed to the jurisdiction
3 of the Department of Corrections *and Rehabilitation*. The
4 petition shall be filed, and the proceedings shall be handled, by
5 either the district attorney or the county counsel of that county.
6 The county board of supervisors shall designate either the district
7 attorney or the county counsel to assume responsibility for
8 proceedings under this article.

9 (j) The time limits set forth in this section shall not apply
10 during the first year that this article is operative.

11 (k) If the person is otherwise subject to parole, a finding or
12 placement made pursuant to this article shall ~~not toll, discharge,~~
13 ~~or otherwise affect~~ the term of parole pursuant to Article 1
14 (commencing with Section 3000) of Chapter 8 of Title 1 of Part
15 3 of the Penal Code. *The tolling of parole shall occur in*
16 *accordance with paragraph (4) of subdivision (a) of section 3000*
17 *of the Penal Code.*

18 (l) Pursuant to subdivision (d), the attorney designated by the
19 county pursuant to subdivision (i) shall notify the State
20 Department of Mental Health of its decision regarding the filing
21 of a petition for commitment within 15 days of making that
22 decision.

23 *SEC. 35. No reimbursement is required by this act pursuant*
24 *to Section 6 of Article XIII B of the California Constitution for*
25 *certain costs that may be incurred by a local agency or school*
26 *district because, in that regard, this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the*
28 *penalty for a crime or infraction, within the meaning of Section*
29 *17556 of the Government Code, or changes the definition of a*
30 *crime within the meaning of Section 6 of Article XIII B of the*
31 *California Constitution.*

32 *However, if the Commission on State Mandates determines that*
33 *this act contains other costs mandated by the state,*
34 *reimbursement to local agencies and school districts for those*
35 *costs shall be made pursuant to Part 7 (commencing with Section*
36 *17500) of Division 4 of Title 2 of the Government Code.*

37 ~~SECTION 1. The Legislature finds and declares all of the~~
38 ~~following:~~

39 ~~(a) Sex crime prevention should be the primary goal of~~
40 ~~community sex offender management programs.~~

1 ~~(b) To be as effective as possible, sex offender management~~
2 ~~programs at the state and local levels must fit into a single~~
3 ~~comprehensive approach. This approach must offer state and~~
4 ~~local law enforcement better monitoring ability to observe,~~
5 ~~assess, and anticipate registered sex offender behavior patterns.~~

6 ~~(c) The public and law enforcement are entitled to more~~
7 ~~accurate, up-to-date and relevant information about registered~~
8 ~~sex offenders.~~

9 ~~(d) To accomplish this, California's infrastructure for~~
10 ~~collecting, maintaining, and disseminating information about~~
11 ~~registered sex offenders must be retooled to ensure that law~~
12 ~~enforcement and the public have access to accurate, up-to-date~~
13 ~~and relevant information about registered sex offenders.~~

14 ~~(e) It is the intent of the Legislature to enact the Sex Offender~~
15 ~~Punishment, Control and Containment Act of 2006, an effective~~
16 ~~and comprehensive strategy to protect California communities.~~
17 ~~Such a strategy must include the following provisions:~~

18 ~~(1) Statewide SAFE teams to monitor all registered sex~~
19 ~~offenders in communities.~~

20 ~~(2) Increased monitoring and intensive scrutiny of registered~~
21 ~~sex offenders on parole or probation.~~

22 ~~(3) Prohibiting offenders from loitering around schools or~~
23 ~~places where other vulnerable populations congregate.~~

24 ~~(4) Penalties for rape or sodomy of a prepubescent child by an~~
25 ~~adult that are increased to 25 years to life.~~

26 ~~(5) School-based programs to promote child safety and~~
27 ~~prevent child abductions.~~

28 ~~(6) Mandatory risk assessments for all persons convicted of~~
29 ~~sex offenses which will be used to better inform the community~~
30 ~~and focus law enforcement resources on those sex offenders most~~
31 ~~likely to reoffend.~~

32 ~~(7) Increased penalties for child pornography.~~

33 ~~(8) Promotion of greater use of existing lengthy sex offense~~
34 ~~sentences by encouraging district attorneys to prosecute under "1~~
35 ~~Strike", "3 Strikes", or Habitual Sex Offender laws rather than~~
36 ~~plea bargaining to lesser offenses.~~

37 ~~(9) Increased parole terms for those convicted of certain sex~~
38 ~~offenses.~~

- 1 ~~(10) Ensure that sexually violent predators serve their full~~
- 2 ~~parole term under strict supervision and that time in a state~~
- 3 ~~hospital does not count for parole.~~
- 4 ~~(11) Mandatory control and containment programming for sex~~
- 5 ~~offenders while in prison and on probation or parole.~~
- 6 ~~(12) Retooling of the Megan's Law website to include more~~
- 7 ~~medium and high-risk sex offenders and provide more~~
- 8 ~~information to the public such as risk level.~~